

## Introduction to a New Era

Four decades ago, Congress began to lend the resources of the federal government to the task of educating children with disabilities. Since then, special education has become one of the most important symbols of American compassion, inclusion, and educational opportunity.

Over the years, what has become known as the *Individuals with Disabilities Education Act* has moved children with disabilities from institutions into classrooms, from the outskirts of society to the center of class instruction. Children who were once ignored are now protected by the law and given unprecedented access to a “free appropriate public education.”

But America’s special education system presents new and continuing challenges. For far too many families, teachers, principals, and school districts, special education presents a daunting task—a morass of rules, regulations, and litigation that limits access and hinders learning.

Hundreds of thousands of parents have seen the benefits of America’s inclusive education system. But many more see room for improvement.

On January 8, 2002, President George W. Bush signed the *No Child Left Behind Act* into law. That law united Congress and our nation. It made a bold, new commitment to *every* child.

We became a nation committed to judging the schools by one measure and one measure alone: whether every boy and every girl is learning—regardless of race, family background, or disability status.

On October 2, 2001, the President created the Commission on Excellence in Special Education (the Commission). The Commission continues the President’s education vision for America—an America where every public school reaches out to every single student and encourages every child to learn to his or her full potential.

Although it is true that special education has created a base of civil rights and legal protections, children with disabilities remain those most at risk of being left behind. The facts create an urgency for reform that few can deny:

- Young people with disabilities drop out of high school at twice the rate of their peers.
- Enrollment rates of students with disabilities in higher education are still 50 percent lower than enrollment among the general population.
- Most public school educators do not feel well prepared to work with children with disabilities. In 1998, only 21 percent of public school teachers said they felt very well prepared to address the needs of students with disabilities, and another 41 percent said they felt moderately well prepared.

- Of the six million children in special education, half of those who are in special education are identified as having a “specific learning disability.” In fact, this group has grown more than 300% since 1976.
- Of those with “specific learning disabilities,” 80% are there simply because they haven’t learned how to read. Thus, many children identified for special education—up to 40%—are there because they weren’t taught to read. The reading difficulties may not be their only area of difficulty, but it’s the area that resulted in special education placement. Sadly, few children placed in special education close the achievement gap to a point where they can read and learn like their peers.
- Children of minority status are over-represented in some categories of special education. African-American children are twice as likely as white children to be labeled mentally retarded and placed in special education. They are also more likely to be labeled and placed as emotionally disturbed.

The President sought a commission that would recommend reforms to improve America’s special education system and move it from a culture of compliance to a culture of accountability for results.

The President earnestly desires a *new era* in special education—one that doesn’t seek to meet minimum requirements, but rather embraces increased academic achievement and real results for every child with a disability. He desires a special education system that aspires to excellence.

The Commission’s charge was to encourage an open dialogue with parents, teachers, families, and communities in an effort to gather insights as well as find better ways to meet children’s learning needs.

The Commission heard from hundreds of individuals and organizations at 13 public hearings and meetings—held in cities throughout our nation. The Commission also invited and received hundreds of written comments.

Their voices were heard.

From the parents who are generally satisfied with special education, to the parents and teachers who expressed deep frustration, we listened.

Their needs are the impetus for reform. Their hopes are the imperative for action.

What we found was a system in need of fundamental re-thinking, a shift in priorities, and a new commitment to individual needs. What we saw was a need for reforms that promise to transform and reach the life of every child with a disability as well as empower every parent.

The Commission worked from the simple principle that accountability for results matters, that parents desire maximum input, and educators want to see efficiency melded with compassion

and improved outcomes. The ultimate test of the value of special education is that, once identified, children close the gap with their peers. That's what accountability for results is about.

Yet, after thousands of comments and letters on the real complexities in the system, we found common threads among those whose needs weren't being met.

**Finding 1:** IDEA is generally providing basic legal safeguards and access for children with disabilities. However, the current system often places process above results, and bureaucratic compliance above student achievement, excellence, and outcomes. The system is driven by complex regulations, excessive paperwork, and ever-increasing administrative demands at all levels—for the child, the parent, the local education agency, and the state education agency. Too often, simply qualifying for special education becomes an end-point—not a gateway to more effective instruction and strong intervention.

**Finding 2:** The current system uses an antiquated model that waits for a child to fail, instead of a model based on prevention and intervention. Too little emphasis is put on prevention, early and accurate identification of learning and behavior problems, and aggressive intervention using research-based approaches. This means students with disabilities don't get help early when that help can be most effective. Special education should be for those who do not respond to strong and appropriate instruction and methods provided in general education.

**Finding 3:** Children placed in special education are general education children first. Despite this basic fact, educators and policy-makers think about the two systems as separate and tally *the cost* of special education as a separate program, not as additional services with resultant add-on expense. In such a system, children with disabilities are often treated, not as children who are members of general education and whose special instructional needs can be met with scientifically based approaches, they are considered separately with unique costs—creating incentives for misidentification and academic isolation—preventing the pooling of all available resources to aid learning. General education and special education share responsibilities for children with disabilities. They are not separable at any level—cost, instruction, or even identification.

**Finding 4:** When a child fails to make progress in special education, parents don't have adequate options and little recourse. Parents have their child's best interests in mind, but they often do not feel they are empowered when the system fails them.

**Finding 5:** The culture of compliance has often developed from the pressures of litigation, diverting much energy of the public schools' first mission: educating every child.

**Finding 6:** Many of the current methods of identifying children with disabilities lack validity. As a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.

**Finding 7:** Children with disabilities require highly qualified teachers. Teachers, parents, and education officials desire better preparation, support, and professional development related

to the needs of serving these children. Many educators wish they had better preparation before entering the classroom as well as better tools for identifying needs early and accurately.

**Finding 8:** Research on special education needs enhanced rigor and the long-term coordination necessary to support the needs of children, educators and parents. In addition, the current system does not always embrace or implement evidence-based practices once established.

**Finding 9:** The focus on compliance and bureaucratic imperatives in the current system, instead of academic achievement and social outcomes, fails too many children with disabilities. Too few successfully graduate from high school or transition to full employment and post-secondary opportunities, despite provisions in IDEA providing for transition services. Parents want an education system that is results oriented and focused on the child's needs—in school and beyond.

In short, our reforms must remove the bureaucracy and regulations that prevent a focus on closing the gap. We must begin with the simple question of whether children with disabilities are learning and functioning well and then reform and tailor the system from there.

To overcome the many challenges to and obstacles in our special education system, we must consider reforms at every level of public education, from the federal to the local level, so that every resource is tailored to the specific needs of students and parents.

This report represents the thoughts, suggestions, and wisdom of more than 100 recognized special education experts, special and regular education finance experts, education and medical researchers, parents of children with disabilities, persons with disabilities, teachers and administrators, and others possessing special education expertise and direct experience with the status quo.

After months of work, we could not agree more with President Bush. We believe and we know we can do better by applying many of the same principles of *No Child Left Behind* to IDEA: accountability for results; flexibility; local solutions for local challenges; scientifically based programs and teaching methods; and full information and options for parents.

The members of the Commission are pleased to submit this report, *A New Era: Revitalizing Special Education for Children and Their Families*. The report outlines our findings and recommendations for improving the educational performance of children with disabilities.

Ultimately, it is a message of hope, an invitation to a new era in education.

We know this report will build on the President's desire for a simpler, fairer, more compassionate and more effective special education system. We know, because we listened to the American people. We know that special education is not a place—it's a service and should be accountable for results.

This year, President Bush has asked for the largest increase in federal funding for IDEA of any president in history, a billion dollar increase to \$8.5 billion dollars. That means the federal government will be supplying \$1,300 for every child with a disability—the highest funding *ever*.

But we cannot be satisfied with merely spending more. We must spend more wisely. The *No Child Left Behind Act* united Congress behind the idea that we can no longer afford to just debate about money. Every education reform must focus on results. Every education idea must be judged by its effect on children.

It is the Commission's hope that this report provides a solid foundation for continuing the President's leadership in education. The report offers an invitation to a *New Era*—an era that serves the needs of the child first, an era that focuses on results, and an era that hones our teaching and instruction to identify needs early and accurately and provide every child with help swiftly and surely.

It is our hope that this report will continue the bipartisan spirit for education reform already achieved so that we ensure our nation leaves no child behind.

## Executive Summary

*“The education of all children, regardless of background or disability...must always be a national priority. One of the most important goals of my Administration is to support states and local communities in creating and maintaining a system of public education where no child is left behind. Unfortunately, among those at greatest risk of being left behind are children with disabilities.”*

—President George W. Bush, Executive Order 13227

On October 2, 2001, President Bush ordered the creation of the President’s Commission on Excellence in Special Education. As part of the President’s charge to find ways to strengthen America’s four decades of commitment to educating children with disabilities, the Commission held 13 hearings and meetings throughout the nation and listened to the concerns and comments from parents, teachers, principals, education officials, and the public.

In this executive summary, we provide the overarching findings illustrated throughout the following pages of the report.

### Summary of Findings

**Finding 1:** IDEA is generally providing basic legal safeguards and access for children with disabilities. However, the current system often places process above results, and bureaucratic compliance above student achievement, excellence, and outcomes. The system is driven by complex regulations, excessive paperwork, and ever-increasing administrative demands at all levels—for the child, the parent, the local education agency, and the state education agency. Too often, imply qualifying for special education becomes an end-point—not a gateway to more effective instruction and strong intervention.

**Finding 2:** The current system uses an antiquated model that waits for a child to fail, instead of a model based on prevention and intervention. Too little emphasis is put on prevention, early and accurate identification of learning and behavior problems, and aggressive intervention using research-based approaches. This means students with disabilities don’t get help early when that help can be most effective. Special education should be for those who do not respond to strong and appropriate instruction and methods provided in general education.

**Finding 3:** Children placed in special education are general education children first. Despite this basic fact, educators and policy-makers think about the two systems as separate and tally *the cost* of special education as a separate program, not as additional services with resultant add-on expense. In such a system, children with disabilities are often treated, not as children who are members of general education and whose special instructional needs can be met with scientifically based approaches, they are considered separately with unique costs—creating incentives for misidentification and academic isolation—preventing the pooling of all available resources to aid learning. General education and special education share responsibilities for children with disabilities. They are not separable at any level—cost, instruction, or even identification.

**Finding 4:** When a child fails to make progress in special education, parents don't have adequate options and little recourse. Parents have their child's best interests in mind, but they often do not feel they are empowered when the system fails them.

**Finding 5:** The culture of compliance has often developed from the pressures of litigation, diverting much energy of the public schools' first mission: educating every child.

**Finding 6:** Many of the current methods of identifying children with disabilities lack validity. As a result, thousands of children are misidentified every year, while many others are not identified early enough or at all.

**Finding 7:** Children with disabilities require highly qualified teachers. Teachers, parents, and education officials desire better preparation, support, and professional development related to the needs of serving these children. Many educators wish they had better preparation before entering the classroom as well as better tools for identifying needs early and accurately.

**Finding 8:** Research on special education needs enhanced rigor and the long-term coordination necessary to support the needs of children, educators and parents. In addition, the current system does not always embrace or implement evidence-based practices once established.

**Finding 9:** The focus on compliance and bureaucratic imperatives in the current system, instead of academic achievement and social outcomes, fails too many children with disabilities. Too few successfully graduate from high school or transition to full employment and post-secondary opportunities, despite provisions in IDEA providing for transition services. Parents want an education system that is results oriented and focused on the child's needs—in school and beyond.

## Summary of Major Recommendations

In response to these findings, the Commission has produced *A New Era: Revitalizing Special Education for Children and Their Families*. This report contains dozens of recommendations addressing each of the Commission's nine major findings and their ramifications.

Overall, federal, state, and local education reform efforts *must* extend to special education classrooms. What we discovered was that the central themes of the *No Child Left Behind Act of 2001* must become the driving force behind IDEA reauthorization. In short, we must insist on high academic standards and excellence, press for accountability for results at all levels, ensure yearly progress, empower and trust parents, support and enhance teacher quality, and encourage educational reforms based on scientifically rigorous research. In addition, we must emphasize identification and assessment methods that prevent disabilities and identify needs early and accurately, as well as implement scientifically based instructional practices.

Three broad recommendations form the foundation of the report.

**Major Recommendation 1: *Focus on results—not on process.***

IDEA must return to its educational mission: serving the needs of every child. While the law must retain the legal and procedural safeguards necessary to guarantee a “free appropriate public education” to children with disabilities, IDEA will only fulfill its intended purpose if it raises its expectations for students and becomes results-oriented—not driven by process, litigation, regulation, and confrontation. In short, the system must be judged by the opportunities it gives and the outcomes achieved by each child.

**Major Recommendation 2: *Embrace a model of prevention not a model of failure.***

The current model guiding special education focuses on waiting for a child to fail, not on early intervention to prevent failure. Reforms must move the system toward early identification and swift intervention, using scientifically based instruction and teaching methods. This will require changes in the nation’s elementary and secondary schools as well as reforms in teacher preparation, recruitment, and support.

**Major Recommendation 3: *Consider children with disabilities as general education children first.***

Special education and general education are treated as separate systems, but in fact *share* responsibility for the child with disabilities. In instruction, the systems must work together to provide effective teaching and ensure that those with additional needs benefit from strong teaching and instructional methods that should be offered to a child through general education. Special education should not be treated as a separate cost system, and evaluations of spending must be based on all of the expenditures for the child, including the funds from general education. Funding arrangements should not create an incentive for special education identification or become an option for isolating children with learning and behavior problems. Each special education need must be met using a school’s comprehensive resources, not by relegating students to a separately funded program. Flexibility in the use of all educational funds, including those provided through IDEA, is essential.

## **A Final Challenge**

Before signing the *Education for All Handicapped Children Act* of 1975 (since reauthorized as the *Individuals with Disabilities Education Act*), President Ford expressed some concerns about the effect of the law. He worried that it would create new complexities and administrative challenges for public education. But ultimately it was hope and compassion that inspired him to sign the bill into law.

More than a quarter century later, we know that many of President Ford’s concerns were realized. But we also know that IDEA has exceeded President Ford’s greatest hopes. Children with disabilities are now being served in public schools. And new opportunities abound. This Commission is optimistic that our nation can build on the successes of the past and do even better in meeting the needs of special education children and their families. But we will do so only through a focus on educational achievement and excellence, teacher quality and support,



and rigorous research. We will succeed if we work to create a culture of high expectations, accountability, and results that meets the unique needs of every child. Only then can the promise of no child left behind truly be fulfilled.

## **Federal Regulations and Monitoring, Paperwork Reduction and Increased Flexibility**

**RECOMMENDATION—REPLACE FEDERAL MONITORING PRACTICES WITH A FOCUSED APPROACH:** The U.S. Department of Education should seek to radically change how it conducts technical assistance and monitoring activities to focus on results instead of process. The Department should monitor and provide effective technical assistance on a much smaller number of substantive measures guided by broad federal standards that focus on performance and results.

**RECOMMENDATION—REDUCE REGULATORY BURDEN AND INCREASE FLEXIBILITY:** The Individuals with Disabilities Education Act should emphasize flexibility to achieve results for children with disabilities, including a unified system of services from birth through 21, and simplify the Individualized Education Program to focus on substantive outcomes. The IDEA federal regulatory and administrative requirements imposed on state and local education agencies are burdensome and should be dramatically simplified to be more understandable for parents, educators and administrators. Up to 10 states shall be allowed to propose paperwork reduction strategies under IDEA to the Secretary of Education.

**RECOMMENDATION—UTILIZE FEDERAL SPECIAL EDUCATION STAFF MORE EFFECTIVELY.** The U.S. Department's of Education's Office of Special Education and Rehabilitative Services (OSERS) has not been able to meet its obligations and appropriately implement its responsibility under federal law. Within three months of the issuance of this report, the Secretary of Education should provide recommendations to Congress on how OSERS can better utilize its staff and resources to implement federal special education law.

**RECOMMENDATION—EXPEDITED RESULTS FROM EXPEDITED IMPLEMENTATION:** Consistent with the *No Child Left Behind Act*, IDEA should provide for expedited implementation of the new IDEA authorization in 12 months. Further, reauthorization should establish a timetable for each section of reauthorization.

Before the enactment of IDEA's predecessor, only about one in five children with disabilities received a public education. More than 1 million students were excluded from public schools, and another 3.5 million did not receive appropriate services. Twenty-seven years later, changes in how we view people with disabilities and the potential of children with disabilities have resulted in increased access to public schools and special educational services for an entire generation.

Yet these gains only reveal part of the story. Since 1975, many of the positive effects realized by federal involvement in special education have been overshadowed by the growth in paperwork and administrative entanglements. These entanglements reduce the focus on individual child results and educational outcomes.

At all levels, the Commission finds that the emphasis on IDEA paperwork requirements is unnecessarily onerous. The culture of process compliance begins at the top of the IDEA implementation pyramid and has a dramatic effect all the way down through the bureaucracy to the classroom. Teachers spend far more time completing documentation and paperwork than is merited by any educational or civil rights compliance purpose. Educators spend more time on process compliance than on improving educational performance of children with disabilities.<sup>1</sup> The Commission finds that the U.S. Department of Education's Office of Special Education Programs (OSEP), which is a division of OSERS, fosters this emphasis as a result of its state and local monitoring methods. These methods place too much emphasis on the compliance for process rather than a more effective and efficient strategy of focused monitoring of compliance for performance and results.

#### Change from a "Culture of Process" to a Culture of Results

Two problems arise from this culture of process compliance. First, the emphasis on process has led to use of checklists of more than 814 federal monitoring requirements to determine if schools have implemented all procedural requirements of IDEA. Few of the more than 814 items on the checklist are directly related to student performance. The National Council on Disability (NCD), testimony from Commission witnesses and public comments at Commission hearings and meetings assert that no state education agency is in compliance and never has been fully in compliance with IDEA. In fact the assistant secretary for the Office of Special Education and Rehabilitative Services, Robert Pasternack, Ph.D., testified before the U.S. Senate on March 21, 2002,<sup>2</sup> that no state is in full compliance with IDEA. Ironically, even if a school complied with the more than 814 requirements, families and Congress would have no assurance children were making progress. Current law has become overly procedural and complex. As a result, schools and other education agencies cannot focus on the improvement of student performance and on student transition to independence and self-sufficiency after graduating from high school.

Second, there is little demonstrable link between process compliance and student results and success. While process compliance two decades ago allowed the federal government to determine whether children with disabilities received any education services, then and now it does little to help parents and teachers judge whether those services lead to student success. Indeed, the complaints by NCD, witnesses and the public about the lack of historic compliance with IDEA beg the more fundamental question of whether such procedural compliance has anything to do with actual student achievement, and their post-school success. To answer these problems, the Commission recommends that IDEA, its regulations and federal and state monitoring activities be fundamentally shifted to focus on results and accountability for scientifically based services, and their continuous improvement.

#### Federal Regulatory Activities Are Off-Target and Inefficient

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<sup>1</sup> American Youth Policy Forum and Center on Education Policy, 2002.

<sup>2</sup> See testimony of Robert Pasternack, Ph.D., assistant secretary, Office of Special Education and Rehabilitative Services, March 21, 2002, before the U.S. Senate Committee on Health, Education, Labor and Pensions.

In IDEA, Congress directed OSEP to provide grants to states for the education of children with disabilities in accordance with IDEA Part B.<sup>3</sup> The IDEA statute does not specify that OSEP must monitor states for compliance with IDEA in the manner OSEP currently practices. It merely requires that states demonstrate to the satisfaction of the Secretary of Education that they have policies and procedures to ensure the basic *principles* outlined in the statute can be met.<sup>4</sup>

OSEP implements this statutory requirement through a complex compliance review process that includes periodic on-site monitoring of states. The OSEP Monitoring and State Improvement Planning Division (MSIP) is responsible for state plan reviews and approval under IDEA, and for monitoring formula grant programs to ensure consistency with IDEA and the implementing regulations. The Commission finds that the methods historically used by OSEP through its MSIP division are focused on administrative and regulatory compliance at the expense of assisting state and local education agencies in their efforts to educate children with disabilities. The Commission heard testimony that MSIP is attempting to change its monitoring process but that it may be constrained by current law. The Commission further finds that the OSEP-issued regulations implementing IDEA are unreasonably complex; burdensome for state and local agencies to comply; and minimally related to student achievement, results and success.

At a Commission meeting on February 25, 2002, in Houston, TX, experts provided testimony regarding the current status of OSEP federal monitoring activities of states with respect to IDEA. Lawrence Gloeckler, Ph.D., deputy commissioner for Vocational and Educational Services for Individuals with Disabilities in the New York State Education Department, stated his frustration with the focus on process rather than results for children with disabilities.

“In New York state, if you asked how well children were achieving academically, administrators couldn’t answer, but what you could find out is how compliant with the process is the given school district. This is what the federal government asks us to focus on. ... We are now working on the fifth draft of the New York State eligibility document required by OSEP to receive our annual IDEA funds. This year our document is 73 pages, and OSEP is debating over our choice of words with respect to transition services. [W]e have been asked to change our state regulations from inviting a child to a meeting if it discusses transition services to OSEP’s [suggested language of inviting] a child to transition if it’s about transition or if it’s about looking at the need for services. Since the State of New York used words that are not identical to OSEP’s, we may need to change our regulations, which means going through a major review in our state, including public hearings and reprinting thousands and thousands of documents, that has nothing to do with providing transition services to students with disabilities at all. In the end we will have done nothing except spend money.”<sup>5</sup>

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<sup>3</sup> See 20 USC section 1411(a)(1).

<sup>4</sup> See 20 USC section 1412.

<sup>5</sup> See Commission meeting held in Houston, TX, February 25, 2002, transcript pages 206 and 251.

“IDEA’s requirements have created a morass of paperwork that has little to do with student achievement. The ‘regulation heavy’ special education system should be focused less on procedures and more on achieving student results.”—David W. Peterson, superintendent of the Northern Suburban Special Education District, Highland Park, IL

The Commission recommends that the current continuous improvement monitoring system be replaced with one that focuses on student performance and results, and emphasizes continuous improvement in significant, measurable areas related to important compliance findings.<sup>6</sup> As further support for its findings, the Commission requested that OSEP provide additional information about how much time is spent in the monitoring process and what resources were devoted to state and local compliance monitoring activities.<sup>7</sup> The Commission’s analysis of the above data provided by OSEP shows that a total of 27 States and territories were monitored between January 1, 1997, and February 1, 2002. While OSEP tells states that a monitoring report will be issued within four to six months of the exit conference with state officials, OSEP’s actual performance is typically between four and 20 months, with an average of 13.6 months during the period noted in the chart at (left/right/top/bottom). OSEP’s response shows that considerable resources are on these activities with questionable results. For example, while one state, Utah, was ultimately found to be among the most compliant in the nation, the final report was not issued by OSEP for a full year from the date the state was monitored.

States and Territories	Number of Months Between Monitoring and Report Delivery
Connecticut, Mississippi, American Samoa, Northern Marianas	4
Arkansas, South Dakota	7
Missouri, Oregon	8
California	10
Montana, New Jersey, North Dakota, Utah	12
New Mexico, Virgin Islands	13
Florida, Washington	14
Colorado	15
Arizona, Massachusetts, Pennsylvania	16
Ohio, Louisiana	17
Nebraska	18
Wisconsin	20
Maryland	21
New York	36+

<sup>6</sup> The Commission recommends that the current method required by the Secretary for a state to demonstrate, to the satisfaction of the Secretary, that the state has in effect policies and procedures to ensure that it meets each of the conditions as specified in the statute, be replaced by requiring that states provide an assurance that such policies and procedures are in effect.

<sup>7</sup> Commission letter requesting information from OSEP dated February 8, 2002. Letter from Commission Deputy Executive Director Troy R. Justesen, Ed.D., to OSEP Acting Director Patricia Guard.

“I reviewed OSEP’s monitoring activities over the past 5 years and found some alarming facts. For example, OSEP’s monitoring division took 22 months completing a follow-up report after a site visit in Wisconsin. After such an extreme delay, the report had lost any impact to amend the state’s behavior.”—Commissioner Ed Sontag

A final OSEP report can be a useful document for technical assistance purposes if the document is provided to the state within the promised length of time. Because of the substantial time between on-site monitoring and the release of reports, most reports are impractical and provide no assurance to Congress or families of the status of IDEA implementation. The Commission recommends that OSEP *publicly* document the actual time between the date of the on-site exit meeting and the date of issuance of the state compliance report.

Data about special education program performance are critical to determine state implementation of federal law and in ensuring children with disabilities and their families are provided with a free appropriate public education in the least restrictive environment. The Commission heard statements about graduation rates, participation in regular school settings, and other quantitative information from past annual reports to Congress. However, the identification of trends has been hampered by inconsistent reporting and data formats.

If the culture of monitoring for results is to take hold and the promise of special education is to be achieved, then accurate and consistent data must be gathered, assiduously analyzed, and publicly reported in a manner that families and states can use. Congress must know that its law is being effectively implemented and that federal resources are used wisely. The Commission finds the current Annual Report to Congress inadequate. It does not give the public and Congress useful information on the accountability of states and their relative performance in meeting federal requirements and standards for achieving satisfactory results. The Commission recommends that the Department of Education’s Annual Report to Congress on IDEA should describe how each state is performing relative to other states. It should also report state performance on a variety of results-oriented dimensions.

#### Utilize Federal Special Education Staff More Effectively

The Commission believes that full implementation of federal law requires a commitment to an appropriately trained and well-utilized staff. The Office of Special Education and Rehabilitative Services—OSEP in particular—has not been able to meet its obligations and appropriately implement its responsibility under federal law. Families and states will not receive the promise of special education without a strong federal office to assist states, reinforce flexibility and innovation, collect important data about results and enforce compliance for results. The Commission recommends that, within three months of the issuance of this report, the Secretary of Education report to Congress recommendations for how OSEP can better utilize its staff and resources to implement federal special education law.

An emphasis on relationships between OSEP staff and state directors of special education blurs the ability to engage in meaningful enforcement actions. Although such relationships may be

helpful in terms of providing technical assistance, the current structure of monitoring, technical assistance and enforcement from one OSEP division, the Monitoring and State Improvement Planning Division, is problematic.

“OSEP’s approach to accountability still permits the fox to guard the henhouse. With the target of the oversight controlling the front end of its own monitoring process, it is unlikely that many criticisms will be forthcoming.”—Patrick J. Wolf and Commissioner Bryan C. Hassel, “Effectiveness and Accountability (Part 1): The Accountability Model,” in Rethinking Special Education in the New Century (2001).

The Office of Special Education Programs, through its staff and funded projects, often provides valuable technical assistance to states and local agencies regarding the implementation of federal requirements for effective programs. However, this relationship inhibits the effectiveness, accuracy and validity of federal monitoring. While no state has ever been found to be in full compliance with federal special education law, monitoring has not been shown to be either efficient or effective in ensuring Congressional intent. The Commission finds that OSEP has not been effective both in implementing technical assistance and in monitoring compliance program performance in states. The Commission recommends that the assistant secretary for Special Education and Rehabilitative Services take whatever steps necessary to ensure states continuously improve their compliance with IDEA and document improved results, including consideration of a separate office for accountability whose most essential function is to monitor special education programs.

OSEP has neither the authority nor the resources to investigate and resolve individual complaints alleging noncompliance. Additionally, even though such authority was incorporated into the 1997 IDEA amendments, the Department of Education has not sent a single case to the Department of Justice for ‘substantial noncompliance.’<sup>8</sup> While the Commission shares the view that regulations are impossible for state and local compliance, this Commission also holds that the current organization of OSEP performing monitoring, technical assistance and enforcement should be changed. This current organization does not allow an appropriate separation between those who provide assistance to state and local agencies and those who enforce compliance at the federal level.

Combining technical assistance and monitoring appears to be a promising new strategy, as described by Larry Gloeckler in Houston, TX.<sup>9</sup> The strategy in New York that he described has been to follow up OSEP monitoring with a focused effort on working with the state to obtain technical assistance in the areas cited during OSEP’s visit. While technical assistance and monitoring should be done separately to ensure the objectivity of monitoring, they should work together to improve results. Monitoring is necessary, but not sufficient on its own, to influence improvement.

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<sup>8</sup> However, OSEP has consulted with the Department of Justice on several occasions regarding issues in a particular state.

<sup>9</sup> See Commission meeting held in Houston, TX on February 25, 2002, transcript pages 205-300.

### Need for Better Intra-Agency and Interagency Coordination

Multiple federal requirements for a variety of educational programs implemented by different offices within the U.S. Department of Education can lead to overlapping and discontinuous requirements for accountability and routine reporting. Many of these requirements are unrelated to the expected results to be achieved with students. Many federal requirements of schools from various programs have a direct effect on planning and implementation of services for students for disabilities (e.g., *No Child Left Behind*). The Commission finds that schools are often unnecessarily burdened by these requirements in that no integrated system of accountability has been developed to ensure efficiency in reporting on federal requirements. Lack of integration often leads to multiple, separate data requirements and on-site visits and local agency personnel unnecessarily distracted from the focus on student results.

For example, the Office of Civil Rights (OCR) frequently investigates and makes findings on issues related to students with disabilities. In some instances OSEP monitors special education programs or administers corrective actions in the same settings. Communication between the OCR and OSEP is not always sufficient and collaborative to ensure that states and LEAs are supported in finding quick resolution and effectively improving results. The Commission recommends that the U.S. Secretary of Education ensure all federal requirements for accountability be integrated into a unified system of accountability throughout the Department.

Numerous witnesses testified that conflicting priorities and requirements at the federal level confound state and local attempts to provide services and programs that will lead to better results and outcomes for students with disabilities while resolving conflicts. Federal agencies with responsibility for educating students with disabilities in special settings (Department of Defense, Bureau of Indian Affairs, etc.) often fail to communicate with the Department of Education regarding essential elements for improving results. Further, data about student performance and results are not systematically collected and disseminated by and across all pertinent federal agencies. Funding for effective programs for students with disabilities at the local level is often complicated by a lack of coordination among agencies with separate funding targeted to meet the needs of these students.

In addition to this Commission, the President has launched his New Freedom Initiative to ensure that all federal agencies work together to reduce barriers to independence for individuals with disabilities. The Commission recommends that the President expand the New Freedom Initiative to address any interagency or intra-agency conflicts or barriers to improving results for infants, toddlers, children and youth with disabilities.

### Accountability, State and Local Paperwork, and the Individualized Education Program (IEP)

A particularly revealing issue to the Commission was the strikingly high number of parents, teachers and administrators who described how IEPs are not actually designed or used for individualized education; instead they are focused on legal protection and compliance with regulatory processes. During a Commission site visit to a local school, one administrator referred to IEPs as a litigation document rather than an instrument outlining an effective instructional program for children with disabilities. The original concept of IEPs as an



instructional framework for a defined period of a child's education has been lost to the greater need to document legal and procedural compliance. Parents and schools often debate the process of special education with little or no attention to expected results. The Commission believes that educators should educate and families must hold schools accountable for compliance with IDEA that generates improved results for students with disabilities.

IEPs should provide a guide for quality instruction and related services for children. IEPs must preserve basic civil rights and promote achievement, but we find this is possible while reducing current excessive and repetitious paperwork requirements. The Commission recommends that IDEA statutory IEP requirements focus on substantive educational and developmental outcomes and results. Failure to meet such outcomes/results would be the basis for individual additional assistance/enforcement under the law.

Among the IEP provisions that would be replaced by measurable annual outcomes and results would be the obligation that IEPs include "benchmarks or short-term objectives." Their inclusion in IEPs contributes greatly to the paperwork burden on educators and parents, and bears no relationship to the non-linear reality of a child's development. Members of the child's IEP team should agree as to the length of evaluative periods, and the criteria for judging results. To the extent desired, an IEP team could include such markers. IEPs should also list services as they relate to the achievement of measurable annual outcomes, not as an independent feature in and of themselves as required in current federal law.

### The Impact of the Paperwork Burden in the Classroom

The combination of federal, state and local paperwork requirements creates a heavy burden on teachers, schools and parents. The growing paperwork requirements do not contribute to student results. The Commission finds that the U.S. Department of Education should clearly describe what paperwork requirements are imposed by federal law. State and local paperwork requirements should be changed to reduce this burden.

"The Commission fully supports retaining the basic rights for children and their families already in IDEA and section 504. Preserving these rights in the context of special education reform is a fundamental recommendation of our work."—  
Commissioner Cherie Takemoto

Students, teachers and families have all complained about requirements for paperwork and documentation driven by the more than 814 federal monitoring requirements for state and local special education programs to comply with IDEA. Often reported violations of federal, state or other requirements results in local schools and agencies developing additional paperwork requirements rather than directly correcting the violation.

Special education teachers feel excessive paperwork interferes with their ability to serve children with disabilities more effectively. The Study of Personnel Needs in Special Education<sup>10</sup> (SPeNSE) sponsored by OSEP reveals that special education teachers often cite required forms and administrative paperwork as an area of dissatisfaction with their working conditions. The

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<sup>10</sup> See Study of Personnel Needs in Special Education Fact Sheet dated January 7, 2002. See <http://www.spense.org>.

typical special education teacher spends five hours per week completing forms and doing administrative paperwork. Moreover, special educators spend more time on paperwork than grading papers, communicating with parents, sharing expertise with colleagues, supervising paraprofessionals and attending individualized education program meetings combined.

SPeNSE reinforces the Commission's findings that the federal emphasis on procedural compliance requirements trickles down to directly impact the amount of time actually spent providing direct services including instruction to children with disabilities. Process compliance review evolved as the major focus to measure compliance with IDEA because it is more difficult to measure outcomes. This challenge to measure the quality of special education services must be the focus of any federal monitoring activity, what Wolf and Hassel call *an obsession with results*.

“First and foremost, every element of the system should focus on student learning. This obsession must begin at the federal level, with the way Congress frames the federal mandate and the way Washington structures its funding and oversight of states. Through those mechanisms it must create the same obsession in state educational agencies, so that they in turn structure their funding and oversight of school districts, charter schools and other entities with student-learning results in mind. Prodded by those systems to focus intently on learning outcomes, districts must structure their relationships with schools and other providers to produce results. Ultimately, the people on the front lines, those who work directly with children, must share this obsession.”<sup>11</sup>

Therefore, the Commission recommends that the reauthorized IDEA include provisions charging the U.S. Department of Education to report back to Congress within 18 months of enactment on strategic proposals to reduce the current paperwork burden. Recognizing that paperwork is a combination of state, local and federal requirements, the Secretary's strategic plan must examine the problem at all levels. To fully examine this problem, we suggest further that the Secretary determine up to 10 states that will be allowed to submit proposals for IDEA paperwork reduction. States would be allowed a waiver of federal paperwork requirements for a period of time with findings reported to the Secretary prior to his report to Congress. Such proposals promote local innovation to reduce paperwork and will also serve as valuable resources for the Secretary to consider in developing federal strategies to reduce the paperwork burden under IDEA.

### Early Childhood Programs

The Commission also heard testimony on the IDEA infants and toddlers with disabilities program (Part C). Although witnesses presented testimony indicating that early intervention services for infants and toddlers with disabilities was efficacious and cost effective, scientifically based programs are not in place in many implementations of Part C. Accountability in Part C is weak and there is a focus on process as opposed to results. The transition from Part C to Part B is often weak. Moreover, services to this population are funded not only through Part C, but through other federal and state efforts. Testimony to the Commission indicated that coordination

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<sup>11</sup> Wolf and Hassel, p. 322.

across programs and with health care providers is often poor. State definitions of eligibility are inconsistent and different agencies may hold responsibility for developing programs leading to wide differences across states in which infants and toddlers receive services and what services they actually receive. Monitoring by OSEP of these programs has only recently been implemented with often disappointing results related to compliance.

Despite evidence that early intervention works, this program has been imperfectly implemented in many states and localities. Multiple agency configurations and competing bureaucratic cultures have often left families without the services they need at the time when their infants and toddlers can make the most significant gains. The time has come to both take advantage of the evidence of effective programs by simplifying bureaucratic structures so that services can be provided as early as possible to maximize effectiveness for children with disabilities and their families.

The Commission recommends that IDEA ensure a seamless system for infants, toddlers, children and youth with disabilities, birth through 21 drawing the most effective aspects of Part C (infants and toddlers), section 619 (pre-school) and Part B (school-age). State educational agencies must be appropriately resourced, flexibly enabled, and charged to ensure effective results. This revision in the legislation would clarify that States could choose lead agencies for different programs but the state's educational agency would monitor and enforce compliance for services as a part of the overall monitoring for IDEA. This effort would enhance state flexibility and promote efficient use of funds for services in meeting the needs of all students with disabilities, particularly children between birth and the age of five and their families.

### Conclusion

Today, much is known about what works and how to provide excellent special education and related services for infants, toddlers, children and youth with disabilities that affect their individual performance. The current regulatory burden that insists on complex procedures stifles the ability of parents, teachers and others to improve results for children with disabilities. The Commission believes that a focus on results and streamlining procedural compliance requirements will encourage flexibility, innovation and choices at all levels. This important shift of emphasis is critical to improving how well children with disabilities who receive special education services will actually benefit from such specially designed instruction and related services. The Commission urges a significant reduction in the federal regulatory burden, caused by the current version of IDEA, and simplified regulations. To achieve improved results, the U.S. Department of Education must provide the highest quality technical assistance and monitor compliance with IDEA more effectively.

## Assessment and Identification

**RECOMMENDATION—IDENTIFY AND INTERVENE EARLY:** Implement research-based, early identification and intervention programs to better serve children with learning and behavioral difficulties at an earlier age. Include early screening, prevention and intervention practices to identify academic and behavioral problems in young children.

**RECOMMENDATION—SIMPLIFY THE IDENTIFICATION PROCESS:** Simplify the IDEA identification and eligibility determination process, and clarify the criteria used to determine the existence of a disability, particularly high-incidence disorders.

**RECOMMENDATION—INCORPORATE RESPONSE TO INTERVENTION:** Implement models during the identification and assessment process that are based on response to intervention and progress monitoring. Use data from these processes to assess progress in children who receive special education services.

**RECOMMENDATION—INCORPORATE UNIVERSAL DESIGN IN ACCOUNTABILITY TOOLS:** Ensure all tools used to assess students for accountability and the assessment of progress are designed to include any accommodations and modifications for students with disabilities.

The Commission finds that the Individuals with Disabilities Education Act (IDEA) establishes complex requirements that are difficult to effectively implement at the state and local level. Nowhere in IDEA is this more complex than in the eligibility determination process. Improving this process, coupled with research-based early intervention programs, may reduce the number of children who are identified as having a disability, particularly when early identification and intervention are in place, and research-based interventions are provided before referral.

“Services first, assessment later.”—Commissioner Steve Bartlett

Some of the complexity of IDEA reflects the proliferation of categories and assessment guidelines that vary in their implementation, often with little relation to intervention. There are 13 separate disability categories in IDEA. Many categories emerged as a result of advocacy group efforts to promote recognition for their specific constituency. The necessity of all 13 categories and their relation to instruction is not firmly established. To illustrate, consider that children with traumatic brain injuries could easily be classified under the “other health impairment” category. From the viewpoint of the assessment and identification process, there are three major types of disorders:

- 1) *Sensory disabilities* such as visual impairments, hearing impairments, deaf-blindness;
- 2) *Physical and neurological disabilities* such as orthopedic impairments, other health impairments, traumatic brain injury, multiple disabilities, autism; and,
- 3) *Developmental disabilities* such as specific learning disabilities (SLD), speech and language impairments, emotional disturbance, mild mental retardation and developmental delay.

This subdivision is not perfect. There are students with rare disorders in the “high-incidence” group, such as those with language disorders who do not speak, or who have a severe psychosis. But the three-group subdivision facilitates understanding of identification practices under IDEA. Children with sensory disorders are identified on the basis of vision and hearing tests. Children with physical and neurological disorders are identified by parents and physicians through medical history and physical examinations. These two types of disorders are commonly referred to as “low-incidence” disabilities and represent about 10 percent of all children served in IDEA.

In contrast, children with developmental disorders cannot be identified on the basis of acuity, physical or neurological findings. These disabilities are widely regarded as variations on normal development that are disabling when they interfere significantly with school performance and adaptive functions. Accounting for 90 percent of all students served under IDEA, these “high-incidence” disabilities are closely linked with teacher referral, but make heavy use of psychometric tests for identification, often in ways that are not linked with instruction. The Commission found compelling evidence supporting the existence of all four high-incidence disabilities and for attention deficit hyperactivity disorders (ADHD). There was compelling evidence that children with these disorders often develop disabilities and require special education services. There are objective criteria for identifying students with these disorders. However, the model for identification is like that used for obesity or hypertension, not measles or meningitis. The disorder is always a matter of degree on a dimension, not a disorder that you either have or do not have, and identification is ultimately a judgment based on the need for services.

This distinction between “low” and “high” incidence disabilities is critical to this section of the report and to other Commission considerations. Economist Julie Berry Cullen, Ph.D.,<sup>12</sup> found that increased funding was not related to the number of children identified with low-incidence disabilities. She found that funding increases for support of special education services did result in increased identification rates for high-incidence disabilities. However, her preliminary research findings indicated that increases in special education funding did not result in improvements in the quality of special education programs.

The Commission could not identify firm practical or scientific reasons supporting the current classification of disabilities in IDEA. The intent of IDEA is to focus on the effective and efficient delivery of special education services. The Commission is concerned that federal implementing regulations waste valuable special education resources in determining which category a child fits into rather than providing the instructional interventions a child requires. The priority should always be to deliver services, with assessment secondary to this aim. When schools are encouraged by federal and state guidelines to focus on assessment as a priority—and often for gate keeping functions to control expenditures—the main victims are the students themselves, whose instructional needs are not addressed in the cumbersome assessment process. Thus, the overall Commission recommendation for assessment and identification is to simplify wherever possible and to orient any assessments towards the provision of services.

### Early Identification and Intervention Programs

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<sup>12</sup> Cullen provided testimony before the Commission on April 16, 2002, in New York City.

The Commission finds that locally driven, universal screening of young children is associated with better outcomes and results for all children. Effective and reliable screening of young children can identify those most at risk for later achievement and behavioral problems,<sup>13</sup> including those most likely to be referred and placed in special education programs.<sup>14</sup>

Witnesses provided the Commission with compelling evidence indicating how early intervention can prevent disabilities in many children and ameliorate their impact in those who develop them. Although the focus of early intervention has largely been on reading, this is understandable given that up to 90 percent of children identified as SLD have reading as their primary area of difficulty.<sup>15</sup> The Commission found compelling research sponsored by OSEP on emotional and behavioral difficulties indicating that children at risk for these difficulties could also be identified through universal screening and more significant disabilities prevented through classroom-based approaches involving positive discipline and classroom management. The Commission also found that these approaches are widely used in some states and that they are at a stage where increased implementation is feasible. The Commission's findings parallel the work of the National Research Council report of minority students in special education which found that early screening followed by effective interventions in the classroom prevented disabilities.<sup>16</sup> Most impressive were the results of large scale clinical trials indicating that early intervention of reading skills in conjunction with positive behavior programs resulted in improved academic achievement and reduction in behavioral difficulties in high risk, predominantly minority children.<sup>17</sup>

The Commission recommends states be given the flexibility to use IDEA funds to support early intervention programs and to combine IDEA funds with other sources of federal support for these programs. This flexibility to support early intervention programs is more fully described in the Finance section of this report.

### Evaluation and Assessment

What all eligibility decisions share for children who enter special education under IDEA is a two-pronged determination: The child must be shown to have a condition (i.e., meets criteria for one of the 13 categories) and must also have demonstrable educational need (i.e., must have difficulty learning or adapting to the school environment). The high-incidence disability categories have more stringent requirements for eligibility. The process typically involves the formal administration of measures of intelligence, academic achievement and behavioral functioning. For emotional disturbance, certification by a licensed psychologist or psychiatrist in many states is necessary to establish potential eligibility. In contrast, testimony to the Commission indicated that ADHD should be assessed like other behavioral disorders and requires a clinical judgment, but children are potentially eligible with a physician's signature as an "other health impairment."<sup>18</sup> The low incidence disabilities also usually require the signature

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<sup>13</sup> Coyne et al., 2001; Fuchs & Fuchs, 2001; Gresham, 2001; Langenberg, 2000.

<sup>14</sup> National Research Council, 2002.

<sup>15</sup> Lerner, 1989; Kavale & Reese, 1992.

<sup>16</sup> National Research Council, 2002.

<sup>17</sup> Kellam et al., 1994.

<sup>18</sup> Moderate and severe mental retardation is usually identified on the basis of the genetic or neurological disorder that causes it and as such, is covered under the other health impaired category. Children with mild mental

of a physician designating that the child has a particular condition and sometimes additional criteria for establishing a sensory disorder, but these are not dimensional disorders like ADHD.<sup>19</sup> For all disabilities, the establishment of educational need is a judgment by the interdisciplinary team. Children are subsequently re-evaluated every three years to ensure continued eligibility.

Federal statutes mandate timelines for eligibility decisions beginning with notification of the parents, who must provide permission for the evaluation. For a high-incidence disability, individuals with some postgraduate preparation—such as school psychologists, speech and language professionals and other ancillary professionals—often do the evaluations. A great deal of their time is spent completing eligibility evaluations, which reduces the amount of their time that can be devoted to direct services, such as behavioral intervention services. The results of these assessments are rarely used to evaluate progress or relate in other meaningful ways to educational need. Testimony provided before the Commission and our review of recent research<sup>20</sup> leads us to find that the cost of these evaluations is significant, ranging from about \$800 to \$8,000 in some sections of the country.

The Commission stresses that each component of any assessment must be selected because of its relationship to educational need. We recommend three-year evaluations of eligibility be dropped in favor of short, yearly assessments addressing progress, which can be used to determine the need for continued services. This would shift the focus from continued eligibility to the impact on results and the possibility of exiting into a less restricted environment. Since norm referenced assessments of achievement and behavior are given to establish eligibility, these components should be repeated yearly to provide these targeted assessments. This information would provide school personnel and parents with information about how well the child is progressing in the special education program. Experts appearing before the Commission also recommended the use of continuous monitoring of progress using brief (one- to two-minute) assessment measures, which research by OSEP has shown enhances instructional outcomes and results for children with learning and behavioral difficulties.

#### Explosive Growth in the Other Health Impairment Category and Learning Disability Category

In the past 10 years, the largest increases in students identified for IDEA services were for the other health impairment category (319 percent), the orthopedic impairment category (45 percent) and the specific learning disabilities category (36 percent). Some of the growth in the other health impairment (OHI) category is the result of the growth in children identified as having ADHD, where a physician's signature is generally sufficient to trigger the eligibility process. However, ADHD is a clinical judgment that has very specific criteria. It is widely believed that many children who are identified through this process are not adequately evaluated. Moreover,

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retardation are most often identified on the basis of test scores. The needs of these two populations may be very different. See Commission meeting held in Denver, CO, on March 6, 2002, testimony of Mark L. Batshaw, M.D., pages 183-231.

<sup>19</sup> An exception is developmental delay, which is used in only a few states and then is typically assessed like the high-incidence disabilities.

<sup>20</sup> Among the reports we reviewed are *Rethinking Special Education for a New Century* published by the Thomas B. Fordham Foundation and the Progressive Policy Institute in 2001; *Minority Students in Special and Gifted Education* published by the National Research Council in 2002; and papers presented at the White House Summit on Early Childhood Cognitive Development in 2001.

in most states the school cannot establish eligibility even though many school psychologists are eminently qualified to identify ADHD. Medications should have nothing to do with identification and must be done in consultation with a physician. The other factor in the increase in OHI and orthopedic impairment categories, outlined in testimony by Mark Batshaw,<sup>21</sup> is the increased survival rate of significantly premature infants and the greater recognition of genetic and neurological factors that cause low-incidence disabilities. For high-incidence disabilities, the rate of SLD and ADHD in premature infants without neurological abnormalities is two to three times higher than in the overall population.

The lack of consistently applied diagnostic criteria for SLD makes it possible to diagnose almost any low- or under-achieving child as SLD depending on resources and other local considerations. Researchers appearing before the Commission uniformly testified that the current definition of SLD in federal regulations is ambiguous and unrelated to intervention. Based solely on psychometric tests, these experts were not able to identify reliable methods for distinguishing children with the label of SLD from children who were not mentally deficient, but with low achievement. To paraphrase Stuebing, et al., the IQ discrepancy model provides an arbitrary subdivision of the reading-IQ distribution that is fraught with statistical and other interpretative problems.<sup>22</sup> A clinical judgment by the interdisciplinary team is always required for any high-incidence disability.

As a result, the Commission fully supports expert recommendations made repeatedly in testimony and the scientific literature that the current methods of assessing the presence of SLD be changed. The Commission recommends that appropriate steps be taken to amend current federal regulations to indicate that IQ achievement discrepancies (and therefore IQ tests) are not necessary for the identification of children as having a learning disability. Similar practices in some states for children with speech and language disorders should be discouraged.<sup>23</sup>

“There is no compelling reason to continue to use IQ tests in the identification of learning disabilities. And that if we eliminated IQ tests from the identification of individuals with learning disabilities we could shift our focus on to making sure that individuals are getting the services that they need and away from the energy that’s going into eligibility determination.”—Sharon Vaughn, Ph.D.

Eliminating IQ tests from the identification process would help shift the emphasis in special education away from the current focus, which is on determining whether students are eligible for services, towards providing students the interventions they need to successfully learn. There is little justification for the ubiquitous use of IQ tests for children with high-incidence disabilities, except when mild mental retardation is a consideration, especially given their cost and the lack of evidence indicating that IQ test results are related meaningfully to intervention outcomes.

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<sup>21</sup> See footnote 18.

<sup>22</sup> Stuebing, et al. (in press).

<sup>23</sup> The Commission recommends that current federal regulations for the identification of children as having mental retardation indicate clearly that IQ tests may be subject to cultural bias and that other methods for identification, such as direct classroom observation and assessments of adaptive behavior, are essential for the identification of children as having mental retardation.



“The real tragedy is that conceptualizations of LD have not changed over 30 years despite the completion of significant research in the past 15 years. What we know from research now needs to be implemented.”—G. Reid Lyon, Jack M. Fletcher, et al.

The Commission believes that the approach to all high-incidence disabilities needs to shift from a failure model to a prevention model. Former OSEP director Thomas Hehir and many others have characterized the approach to the specific learning disability category as a “wait to fail” model. Despite the evidence showing that many children with SLD and behavior problems have much better outcomes with early identification and intervention, many schools do not assess children for these difficulties prior to the third grade. Experts at the 2001 OSEP Learning Disabilities Summit described the enormous variation in how closely schools follow state regulations for eligibility in the high-incidence disorders, with teacher referral clearly being the most salient variable determining who eventually is served. Regardless, few children evaluated for a high-incidence disability fail to receive (or actually need) an IQ test.

The Commission recommends that the identification process for children with high-incidence disabilities be simplified. Assessments that reflect learning and behavior in the classroom are encouraged, with less reliance on the assessments of IQ and achievement that are now predominant. A key component of the identification process, especially to establish education need and make this decision less subjective, should be a careful evaluation of the child’s response to instruction. Children should not be identified for special education without documenting what methods have been used to facilitate the child’s learning and adaptation to the general education classroom. The child’s response to scientifically based interventions attempted in the context of general education should be evaluated with performance measures, such as pre- and post-administration of norm referenced tests and progress monitoring. In the absence of this documentation, the Commission finds that many children who are placed into special education are essentially instructional casualties and not students with disabilities.

“I would like to encourage this Commission to drive a stake through the heart of this overreliance on the discrepancy model for determining the kinds of children that need services. It doesn't make any sense to me. I've wondered for 25 years why it is that we continue to use it and over-rely on it as a way of determining what children are eligible for services in special education.” —Commissioner Wade Horn.

To prevent the wrong children from being served, the Commission recommends that current regulations be modified so that the student’s response to scientifically based instruction is part of the criteria for SLD. The Commission also recommends that this concept be extended to other high-incidence disabilities. This recommendation is consistent with the emphasis on early screening and intervention advanced throughout this report. The Commission notes that the development of these models is uneven and that technical assistance from OSEP will be critical for implementation of this recommendation. Parents should always have the right to request an evaluation, and current placement decisions should be respected. But, the outcomes of children

for whom placement is a consideration or who are placed in special education should always be monitored to determine whether the child is making progress.

### Disproportionate Representation of Minorities in Special Education

A particularly disturbing finding is that children of minority status are over-represented in some categories of special education. This is especially apparent for African American males in high-incidence categories such as mental retardation and emotional disturbance. The recent National Research Council report on minority representation in special education found that African American children are twice as likely as whites and American Indians/Alaskan natives to be identified for the mental retardation category. In the emotional disturbance category, black students are about half more likely than white students to be classified in this category. The Commission did not find significant evidence for over-representation of minorities in the learning disabilities category. The magnitude of the overrepresentation problem varied across state and local education agencies within all high-incidence categories. However, the Commission found no consistent evidence for over-representation of minorities in low-incidence categories.

The Commission found that several factors were responsible for this overrepresentation, including the reliance on IQ tests that have known cultural bias. This may result in more minority children being identified in the mental retardation category as opposed to the SLD category. Minority children are much more likely to be placed in the emotional disturbance category because of behavioral characteristics associated with the cultural context in which a child is raised. A major factor is the role of teacher referral. In some studies, teachers refer more than 80 percent of children who are placed in a high-incidence category. To the extent that teachers are not prepared to manage behavior or instruct those with learning characteristics that make them “at risk” in general education, minority children will be more likely to be referred.

To help address this problem, the Commission again recommends all children be screened for learning and behavioral difficulties in the early grades. Compelling testimony was presented indicating that such screening is possible and would serve both to promote early intervention and to reduce the role of teacher referral in identification for high-incidence disabilities. We do make recommendations to improve teacher preparation concerning this issue in the personnel preparation section of our report. This approach more effectively addresses this matter in ways that will result in fewer minority children inappropriately placed in special education programs.

### Universal Design Principles

Despite the fact that IDEA requires participation of students with disabilities in statewide assessments, children with disabilities are often excluded from these assessments to establish the accountability and progress of public schools. This is a major problem, as such assessments generally are designed without consideration of modifications or accommodations students with disabilities may need to complete the assessment. Thus, when students with disabilities request modifications, the request is denied because it would presumably invalidate the test or, if the request is granted, the test results are rejected from accountability considerations as invalid results.

This barrier must be removed to allow the appropriate modifications and accommodations students with disabilities may require. The Commission recommends that all measures used to assess accountability and educational progress be developed according to principles of universal design so that modifications and accommodations are built into the test that will not invalidate the results. Guidelines to states and schools should specifically outline modifications and accommodations that are reasonable and explain why some modifications and accommodations cannot be provided, such as reading a reading assessment to a child with a reading disability.

### Conclusion

The Commission recommends amending IDEA to improve the methods used to locate, identify and assess children who are suspected of having a disability. In addition, regulations must be issued that are consistent with the best scientific evidence to assist parents, educators and administrators in serving children with disabilities. Any amendment must align requirements for accountability, the inclusion of people with disabilities and annual yearly progress to those adopted in the *No Child Left Behind* Act. Such amendments must also indicate that early intervention is the responsibility of both general and special education. Accountability for children with disabilities should continue as part of the *No Child Left Behind* Act, which should include referrals from and exits out of special education for both regular and special education.

## Special Education Finance

### **RECOMMENDATION—INCREASE DISCRETIONARY PART B FEDERAL FUNDING AND ESTABLISH A DEFINABLE THRESHOLD PERCENT OF EXCESS COSTS:**

Discretionary federal funding for special education has significantly increased during the past seven years. This trend has compensated for historical under-funding of special education at the federal level. The Commission believes that the trend of increased federal funding for special education should continue up to a specified threshold expressed as a percent of the estimated “excess cost” of special education borne by local education agencies.

**RECOMMENDATION—LINK FUTURE FUNDING INCREASES ABOVE THE THRESHOLD PERCENT TO STATE PLANS TO IMPROVE ACCOUNTABILITY FOR RESULTS:** Cost accountability is fundamental to program accountability. IDEA should increase federal funding to a state for special education above the established threshold percent only if the state has submitted a state improvement plan, consistent with *No Child Left Behind*, for implementing a new accountability system that encompasses a broad range of measures of results for students with disabilities. Funding in future years should be contingent on achievement of results in that plan.

**RECOMMENDATION—TARGET FUNDS FOR DIRECT SERVICES:** IDEA should direct that 90 percent of Part B funds should flow-through to local education agencies, and prioritize remaining Part B funds, retained at the state level, consistent with a set of national priorities and additional recommendations contained in this report.

**RECOMMENDATION—FUNDING SHOULD BE INCREASED FOR PART C AND SECTION 619.**

**RECOMMENDATION—INCREASE STATE AND LOCAL FLEXIBILITY:** IDEA should eliminate or revise any financial structures in IDEA that hamper state and local education agencies’ ability to focus on results for eligible students with disabilities. Year-end unexpended local education agency federal funds and a fixed percent of Part B flow-through funds should be used to establish and maintain risk management pools to serve high-cost students such as those who have significant disabilities.

**RECOMMENDATION—FOCUS ON HIGH-NEED CHILDREN:** IDEA should allow and encourage states to address the impact of students with significant disabilities on state and local districts through the use of safety net funding.

The Commission’s recommendations relating to the finance of special education represent several important shifts in how federal, state and local governments pay for special education services. Central to these recommendations is a revised calculation of “excess costs,” which essentially are those costs that exceed the average annual per-student expenditure in a local education agency during the preceding school year. A revised calculation of excess costs should include improved estimates of expenditures necessary to provide appropriate results for students with and without disabilities, and estimates of per pupil revenues available to the typical general

education student with no special needs (i.e., a non-disabled student not eligible for Title I remedial services under the *No Child Left Behind* Act, English language learner or other federal education programs). To the extent possible, these data should conform to the most current education finance data available.

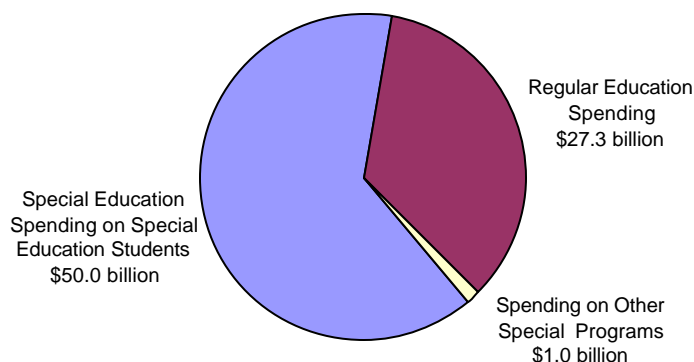
Once a threshold obligation of definable excess cost is established, incremental increases above the threshold must be linked to improved results for students receiving for special education. Changes can also be made to maximize the use of available federal funds without compromising the supplemental nature of federal funding. These changes seek to place greater flexibility in the hands of states and localities and balance the shared responsibility for financing special education. Rules and regulations created 30 years ago when schools fought against the entitlement of special education may now create unintended consequences such as preserving the status quo. They also serve as an impediment to the appropriate allocation of resources.

Unintended consequences and improper fiscal incentives must be actively discouraged. The concentration of students with autism, emotional disturbance or other significant disabilities in LEAs with outstanding special education programs or medical care facilities or the random distribution in small towns of these high-need populations creates disproportionate obligations for these localities to provide services. The costs of these services should be appropriately shared across a larger population. These high-need children are precisely the children IDEA seeks to protect and who states and localities should serve.

#### What We Know About Special Education Spending

National expenditures for special education services in 1999-2000 totaled an estimated \$50 billion. An additional \$27.3 billion was spent on regular education services and an additional \$1 billion was spent on other special needs programs (e.g., Title I, English language learners or Gifted and Talented Education). Thus, *total estimated spending to educate students with disabilities* found eligible for special education programs was approximately \$78.3 billion.

#### **Composition of Expenditures for U.S. Students With Disabilities Eligible For Special Education 1999-2000**



In per pupil terms, *total spending used to educate the average student with a disability* was an estimated \$12,639. This amount includes \$8,080 per pupil on special education services, \$4,394 per pupil on regular education services, and \$165 per pupil on services from other federal, special need programs. The total including only the regular and special education services amounts to \$12,474 per pupil.<sup>24</sup>

Based on these 1999-2000 figures, total spending to educate students with disabilities including regular education, special education and other special needs programs combined represents 21.4 percent of the \$360.6 billion total spending on elementary and secondary education in the United States. Total special education spending accounts for 13.9 percent of total spending and 15.4 percent of total, current spending.<sup>25</sup>

While these data provide an indication of expenditures associated with providing special education and related services to students, the data do not provide any indication of the available revenues that could have been used to offset the reported expenditures. For example, general education expenditures of \$4,394 per special education pupil only accounted for a portion of the general education revenue available to non-disabled students. The distinction between “available revenues” (equivalent shares of state and local general education funding as well as any local enhancements) and legitimate expenditures is important in determining and defining excess costs and the federal share of those costs. Eligibility for special education should in no way diminish or dilute a student’s right to a general education.

### Excess Costs and the Appropriations Index

There is no scientific or particular public policy basis for defining full funding of the federal portion of special education at 40 percent of average per pupil expenditure. In 1975, the Congressional conferees arrived at the 40 percent maximum funding level in reconciling differences between the House and Senate versions of their originally passed bills. The conferees tied special education funding to average per pupil expenditure (APPE) because they believed the cost of special education was approximately twice the cost of regular education.<sup>26</sup>

<sup>24</sup> The Commission greatly appreciates the assistance of the American Institute for Research support in allowing the Commission to cite the above information. See Chambers, Jay G., Parrish, Tom and Harr, Jenifer J., *What Are We Spending on Special Education Services in the United States, 1999-2000?*, Advance Report #1, American Institutes for Research, March 2002. See <http://seep.org> for more specific data about special education finance.

<sup>25</sup> Total current spending is equal to total spending less the amounts expended on school and district facilities (e.g., school buildings and district offices).

<sup>26</sup> The law and the regulations specify how APPE is to be calculated and its calculation excludes certain sources of federal and state funding from total educational expenditures prior to final determination of annual per pupil expenditure. IDEA section 602(7) specifies the following definition for average per pupil expenditure (APPE):

(7) EXCESS COSTS- The term ‘excess costs’ means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under part B of this title;

(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; or

(iii) under part A of title VII of that Act; and

(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

Since that time, Congress has expanded IDEA eligibility to include students with high-incidence disabilities who constitute most current children receiving for services under the Act. The U.S. Department of Education now estimates that as a nation, we are spending about 90 percent (1.9 times) more on the average eligible student for special education than we do on the average general education student with no special needs (i.e., a student who does not have a disability or who has no need for any type of compensatory education program). By using APPE as the baseline, Congress is attempting to meet a percentage of an approximation of what was believed to be the “excess costs” of special education.

Since 1975, the “up to 40 percent” APPE target has taken on symbolic value far beyond Congressional intent in 1975. Many still perceive this 40 percent figure as a representation of “full funding.” Over the past several years, marked increases in IDEA Part B funding have been based on a desire to meet this “full funding” target. However, the increases to meet this target have been based on expenditure driven data, rather than on estimates of the true excess cost of achieving excellence for students with disabilities.

The Commission believes that federal and state departments of education should undertake the serious business of determining and funding true excess costs rather than providing expenditure data that are not always comparable from state to state or district to district. In the meantime, a proxy for excess cost determination would be national, state or local APPE times the most current research-based estimate of the additional expenditures associated with providing special education (e.g. 1.9) minus the national, state or local APPE. The remainder of this equation represents our best estimate of excess costs, or those costs above the costs to educate a non-disabled student with no other special needs.

After determining a more reliable value for excess costs such as the one described above, IDEA should provide that any funding beyond the set threshold percentage of definable excess costs be allocated to states based on their state improvement plans, and improved academic and post-school results. Both states and local districts would be responsible for designing and implementing a program of accountability as part of their state improvement plans and demonstrating definable and measurable student results and outcomes prior to receiving these additional funds. It is also important to recognize that if a percentage of the total K-12 population (such as 12 percent) is not used as an index, and other measures outlined in this report are not applied, the special education population could increase significantly within the next decade due to the potential for inclusion of students needing remedial assistance in special education.

Incremental increases based on results above the threshold percent of the cost to educate the average child in regular classroom settings should not result in any additional paperwork or reporting burdens on states and local districts. If additional data are needed to justify the increases above the threshold amount, these data should replace, not add to existing data

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The purpose of these calculations was presumably an attempt to estimate the baseline cost or expenditure on a general education student with no special needs.

requirements, and be consistent with other accountability recommendations included in this report and NCLB.

While the Commission believes that increasing appropriations for IDEA should remain a federal priority, it recommends keeping funding for this program as discretionary. While students with disabilities receive civil rights-like protections under IDEA, it is incorrect to claim that the IDEA Part B program is an “entitlement” that should not be subject to the appropriations process. Like many other critical federal priorities—such as funding for disadvantaged students, health care research, national defense and homeland security—Congress and the Administration should have the ability to determine the appropriate federal funding level for IDEA on an annual basis.

#### Children with Disabilities Who are the Most Expensive to Educate

During Commission hearings, both invited and public witnesses reaffirmed many of the perceptions associated with escalating expenditures in special education: the greatest concerns about costs for local districts are derived from high-need children with significant disabilities who require expensive placements within and outside of the district. Critical shortages of qualified staff in special education exacerbate these concerns.

Since high need special education students are not evenly distributed throughout the United States, the Commission recommends that the federal government assist states and localities in funding the cost of the most expensive students. The most costly students are almost always students in which existence of the disability, the adverse impact of the disability and the need for specially designed instruction are clear and convincing. Recognition of some responsibility for funding for such students would not create any adverse categorization or funding incentives.<sup>27</sup> Funding for identifiable high-need students would essentially ensure that students with high-need disabilities who require unusually expensive special education services receive such services without penalizing students with less severe disabilities as well as their classmates without disabilities.

At present, there are no current provisions under IDEA that provide state educational agencies with targeted resources to offset the fiscal impact on local education agencies of providing a free appropriate public education to high-need children with disabilities. States and local districts often choose not to expend their entire allocation of federal funds for fear that unanticipated expenditures will suddenly emerge and explode an already tight budget with no avenue for relief. Since cost cannot be used as a basis for denying services needed to provide children with disabilities a free appropriate public education, concerns about rising special education costs focus on the relatively few special education students who are among the most costly to educate. For example, in a prominent case in Cedar Rapids, IA, involving a child with a severe disability, the school district faced a significant financial burden to provide constant one-on-one care determined as related services under IDEA. The U.S. Supreme Court affirmed the financial responsibility of the district in this regard.<sup>28</sup>

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<sup>27</sup> See Testimony before the Commission by Dr. Julie Cullen, New York City, April 16, 2002, discussing the types of categorical referrals that do drive placement.

<sup>28</sup> See *Cedar Rapids Community Sch. Dist. v. Garret F. by Charlene F.*, 526 U.S. 66, 119 S.Ct. 992 (1999).



Ultimately, state and local education agencies are responsible for providing appropriate special education and related services. Therefore, states and local districts should be provided with the opportunity to develop and implement fiscal practices that proactively recognize and deal with such circumstances without jeopardizing their entire budgets.

“The federal government should assume a significant responsibility for funding of the most expensive students.”—Commissioner Jay G. Chambers

A relatively small number of children and youth with disabilities (approximately one-half of one percent) require special education services that can cost more than \$100,000 per year. Some states have established extraordinary cost funds to assist local school districts with offsetting the fiscal impact of these high-cost students. Examples of state reimbursement formulas are listed at (right/left/below/above):

- Maryland: Costs that exceed three times the average per pupil expenditure in the district
- New York: Costs that exceed four times the average per pupil expenditure in the district or \$10,000, whichever is lower
- Missouri: Costs that exceed five times the average per pupil expenditure in the district
- Utah: Costs exceeding \$15,000
- New Jersey: Costs that exceed \$40,000
- Vermont: Costs that exceed \$50,000
- Washington: Costs that exceed \$15,000 when a district can demonstrate that all legitimate expenditures are exceeded by all available revenues

However, a number of states with high-cost student formulas have not met the fiscal obligations incurred under their formulas and have either under-funded or ceased funding when the budgeted amount is exceeded. This practice has resulted in a significant financial burden on local school districts and has raised concerns that in some cases, due to cost, appropriate services may not be provided.

The Commission recommends IDEA include models for funding the costs of exceptionally high-need children and allowing local education agencies to proactively prepare for incurring unanticipated fiscal obligations associated with the provision of special education. First, IDEA should permit states to use federal funds to develop and maintain safety net<sup>29</sup> programs to help pay the cost of high need children. Second, IDEA should allow local education agencies to retain a portion of their unspent federal IDEA funds at a local or regional level for the purpose of

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<sup>29</sup> A “safety net” is a state-based program allowing local districts or education service agencies to seek reimbursement for appropriate costs, or a percentage of costs above a certain cost threshold or in a certain category of expenditures (such as out-of-district placement costs). The safety net program is managed by a board or official who decides whether expenditures are reimbursed and at what level. Reimbursement would be discretionary based on demonstrations of need in addition to the other criteria—costs above an established level from all local or regional available revenues for the student, and weighed against all legitimate expenditures associated with the student’s appropriate program.

creating risk management pools<sup>30</sup> to deal with other unanticipated costs of providing special education.

### The Need for More Research

The U.S. Department of Education has no data or other information needed to address questions about the costs, expenditures and fiscal planning to better inform how well states and localities allocate funds to provide special education services. The Department should undertake research that begins to help understand the relationship between definable student outcomes and results, and the investment of educational resources. We find the need for more data collection and analysis is crucial to inform the nation about the costs and expenditures of special education and related services.

Currently, special education finance studies are conducted about once every decade by OSEP. Given the importance of this information, the Commission suggests that OSEP conduct studies on special education spending and spending on general education and other special needs programs for students with disabilities on a more frequent basis to be determined by the director of the Office of Special Education Programs in conjunction with the assistant secretary for Special Education and Rehabilitative Services. In addition, efforts should be made to coordinate with the National Center for Education Statistics to improve ways of collecting such information on a continual basis.

Based on the comments of experts, Commissioners and others, the Commission recommends that data be collected and analyzed for use by policymakers in the following areas:

- Use of a census based formula for distribution of special education funds;
- Determination of the costs and necessary resources for student achievement of identifiable outcomes and results;<sup>31</sup>
- Influence of eligibility parameters and uses of other federal funds for high need students;
- Impact of state special education high need reimbursement models and risk management pools on service delivery models and settings in special education;
- Influence of pooling Part C and section 619 funds on early intervention success; and
- Impact of fiscal reforms in special education on the general education program.

“We must allow states greater flexibility to financially manage their short-term and long-term financial responsibility. Federal policy with respect to IDEA funding must give states more discretionary ability to direct funds that best serve children with disabilities in their state rather than a prescribed set of requirements that do not take unique local conditions and needs into account.”—Commissioner Douglas Gill

<sup>30</sup> A “risk management pool” is a nonprofit insurance cooperative among local districts or education service agencies that performs the same function as a safety net without the discretionary component.

<sup>31</sup> This component of the research will be important in helping OSEP refine the concept of “excess cost” as distinguished from “additional expenditure.” This should also include some collaboration with NCES as to how one might improve upon data collection on school spending and school revenues to provide a better estimate of the average annual per pupil expenditure for a general education student with no special needs.

### State and Local Flexibility

To better balance the competing needs of localities to fund special education and states to ensure special education services benefit children within their borders, the Commission further recommends IDEA be amended to require that a full 90 percent of Part B state grant funds be passed through to local school districts. IDEA should allow states to use a fixed percent of the flow-through funds to supplement the creation of risk management pools and use the balance of remaining grant funds under Part B for discretionary, administrative and high-need student reimbursement purposes.<sup>32</sup>

Further, IDEA should allow States and local districts to pool existing Part C infant and toddler program funds and section 619 preschool funds with Part B to create seamless systems of early intervention services. States and local districts should also be allowed to use Part B funds to provide pre-referral services.

### Conclusion

The recommendations proposed in this section of the report represent significant cornerstones in the revision and improvement of special education finance. When taken in aggregate, the recommendations can serve to move the financial debate in special education from an argument of under-funded mandates to a focus on reimbursement for results. The Commission believes that the proposed changes in this section can also serve to wring many other inappropriate fiscal incentives from public education finance systems. Some examples may include, but are not limited to, finance structures that encourage minority over identification, cause districts to operate special education programs solely on the basis of available excess funding, thwart parent choice, drive special educators from their field, and discourage local innovation.

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<sup>32</sup> These percentages should be applied against the total state appropriation of Part B funds, and not complicated by the unnecessary calculations currently imposed by IDEA.

## Accountability, Flexibility and Parental Empowerment

### **RECOMMENDATION—SET HIGH EXPECTATIONS FOR SPECIAL EDUCATION:**

The *No Child Left Behind* Act (NCLB) requires states to establish high expectations for students with disabilities on state reading and mathematics assessments. The Individuals with Disabilities Education Act should require each state to establish additional ambitious and conforming goals for students with disabilities by using measures such as graduation rates, post-graduation outcomes and parent satisfaction surveys. States should also be required to define “adequate yearly progress” under IDEA for students with disabilities in local education agencies (LEAs) toward these goals. In addition, while measurements of “least restrictive environment” are not necessarily outcomes per se, they are important and should be measured and reported at state, local and school levels.

**RECOMMENDATION—HOLD LEAs ACCOUNTABLE FOR RESULTS:** State and local accountability systems should include *all* children, and each system must be consistent with the *No Child Left Behind* Act. IDEA should require states to report annually on the success of each school and LEA in achieving IDEA goals for students with disabilities. IDEA should provide for technical assistance for LEAs that fail to make adequate yearly progress under IDEA, and it should require States take more intensive corrective actions—including state direction of IDEA funds for LEAs that do not demonstrate adequate yearly progress under IDEA for three consecutive years. To the maximum extent feasible, states should disaggregate data, and if not possible, states must work quickly to establish a system that can do so. These requirements would, to the maximum extent possible, replace existing process-based accountability systems, while fully retaining the civil rights protections of IDEA.

**RECOMMENDATION—INCREASE PARENTAL EMPOWERMENT AND SCHOOL CHOICE:** Parents should be provided with meaningful information about their children’s progress, based on objective assessment results, and with educational options. The majority of special education students will continue to be in the regular public school system. In that context, IDEA should allow state use of federal special education funds to enable students with disabilities to attend schools or to access services of their family’s choosing, provided states measure and report outcomes for all students benefiting from IDEA funds. IDEA should increase informed opportunities for parents to make choices about their children’s education. Consistent with the *No Child Left Behind* Act, IDEA funds should be available for parents to choose services or schools, particularly for parents whose children are in schools that have not made adequate yearly progress under IDEA for three consecutive years.

### **RECOMMENDATION—PREVENT DISPUTES AND IMPROVE DISPUTE**

**RESOLUTION:** IDEA should empower parents as key players and decision-makers in their children’s education. IDEA should require states to develop early processes that avoid conflict and promote individualized education program (IEP) agreements, such as IEP facilitators. Require states to make mediation available anytime it is requested and not only when a request for a hearing has been made. Permit parents and schools to enter

**binding arbitration and ensure that mediators, arbitrators and hearing officers are trained in conflict resolution and negotiation.**

Promoting more effective and efficient methods of accountability for results emerged as a key theme during several Commission meetings and hearings. This section focuses on ways that state and local accountability measures must change to better assess the services provided to children with disabilities and their families. It focuses on the importance of expanding standards-based reforms while increasing parental options in planning their child's education and future. Recommendations for improving the accountability and effectiveness of the principal federal administrative agency managing the IDEA statute are contained in section one.

We believe the same accountability, flexibility and parental choice concepts embodied in the *No Child Left Behind* Act must form the basic blueprint for improving IDEA.

Set High Expectations for Special Education and Hold LEAs Accountable for Results

In testimony and public comment, the Commission heard repeatedly about the need to focus special education accountability on the results achieved by students with disabilities. Witnesses from a variety of perspectives told us the current approach to accountability in special education is too focused on procedural compliance. Though the 1997 IDEA amendments generated more measurement of results, IDEA remains a process-focused law under which states and LEAs can fail to achieve results without consequences.

Consequently, IDEA should be revamped to require states to: (1) set ambitious goals for special education in alignment with the *No Child Left Behind* Act; (2) define "adequate yearly progress" toward goals for special education; (3) measure and report on achievement of these goals; and (4) take action when local education agencies chronically fail to make progress.

Setting ambitious goals for special education is the first step toward accountability for results. For too long, our nation has had low expectations for students with disabilities. Instead, we must insist that *all* students in special education make strides towards challenging and appropriate learning and developmental goals. The *No Child Left Behind* Act moves in that direction, requiring schools to demonstrate adequate yearly progress for all students with disabilities in reading and mathematics.

"Special education is in need of fundamental reform. We need to align the IDEA with those progressive accountability efforts included in the President's *No Child Left Behind* Act."—Commission Chairman Terry E. Branstad

The Commission's recommendations build on that strong foundation. IDEA should affirm NCLB's insistence on the inclusion of students with disabilities in statewide assessment and accountability systems. For the small percentage of students for whom alternative assessments are appropriate, IDEA should set clear standards for state alternative assessment systems, including a requirement that they be aligned with states' broader standards and assessments. The Commission recognizes that measures of progress for students with disabilities will require

additional assessments and individualized accommodations. But *every* student's progress must be assessed *every year* and "counted" in state accountability systems. As Martha L. Thurlow, Ph.D., stated in her testimony before the Commission on March 13, 2002, in Des Moines, IA:

"[I]t is important for us to stay the course with the IDEA 97 requirements for students to participate in assessments, with accommodations as needed, and for alternate assessments to be developed for those students unable to participate in regular assessments. It is important to ratchet-up the requirements, so that all students with disabilities [are] included in educational accountability systems, including those in alternate assessments—a requirement that is consistent with the *No Child Left Behind Act*."

IDEA should also require states to set ambitious goals for special education on indicators other than standardized assessments, such as graduation rates, post-graduation outcomes and parent satisfaction. Consistent with NCLB, IDEA should mandate that states define "adequate yearly progress" towards these goals. Only with such definitions will states and the federal government be in a position to judge the success of special education programs.

Setting high expectations is only the start. The motivating power of public scrutiny supports numerous federal laws, including NCLB. IDEA should also demand that each state report every year on the progress made by schools and LEAs toward achieving the state's ambitious goals for students receiving special education. These reports should form a part of the report cards required by NCLB. Reports should disaggregate data to the maximum extent feasible. In particular, they should make it possible to judge the progress of students with significant disabilities at the LEA level. Such students are too often left out of measurement and accountability systems.

In addition to providing progress reports to parents and citizens, states should also use information to hold local education agencies accountable for results. As with NCLB, states should be required to categorize LEAs based on the level progress they are making toward goals for special education. IDEA should mandate that states use the following strategies for LEAs that consistently fail to make adequate progress toward goals for special education:

1. For LEAs that fail to make adequate yearly progress, states should initially provide technical assistance targeted to those specific areas identified in need of specialized intervention.
2. When LEAs fail to make adequate yearly progress over a certain number of years, defined by Congress, IDEA should require states to take more dramatic corrective actions, including possible direction of LEAs' special education spending and programs by a state trustee.

In cases of consistent failure beyond the timeframe of state actions, IDEA should allow for direct federal intervention, including but not limited to the direction of federal special education spending at the discretion of the U.S. Secretary of Education.

Such a system of accountability would define in clear terms what counts as success in special education. It would provide everyone, from families and educators to policymakers and the public, with useful information about how well we are educating students with disabilities. And it would ensure that when LEAs fall short in the results they achieve in special education, swift corrective actions would be taken.

The Commission is appropriately concerned that too many children fail to move from school to adult living more successfully. Although this concern is addressed in this report's Transition section, students with disabilities should strive first for the regular high school diploma. The current "either diploma or graduation certification" division is inadequate. A graduated diploma system will more accurately represent levels of skill and ability. Students with disabilities, who are, because of their disability, unable to perform at standard for a full high school diploma, yet demonstrate skills for employment and post-secondary educational opportunities cannot now enter many employment settings because they do not hold regular high school diplomas. States should consider implementing a graduated high school diploma system that will open more doors to employment and post-secondary education than current options permit.

We are concerned about children with disabilities in the child welfare system, and youth with disabilities in the juvenile justice system. We encourage state agencies with authority over the direction and expenditure of federal and state funds under IDEA and the *No Child Left Behind* Act to develop interagency agreements with juvenile corrections agencies, foster care and other relevant authorities to ensure continued alternative educational services (including the full continuum of services as provided under IDEA).

#### Increase Parental Empowerment and School Choice

Each Commission meeting and hearing provided a public comment period for individuals to offer their views about special education services. Many of the individuals who provided comments were parents of children with disabilities. These parents voiced both support and criticism of the current special education system. What resonated with the greatest force was the oft repeated desire of parents to hold "the system" more accountable for educating their children. The system was frequently identified as a combination of the local, state or federal educational agencies with which parents interact, often with great aggravation, to obtain special education services for their children. The Commission views parental empowerment as essential to excellence in special education. Increasing parental empowerment coupled with public accountability for results will drive better results for children and schools.

According to teachers and administrators, the current system is focused on a procedural compliance-oriented program and should be changed to a system that provides the flexibility to develop innovative strategies to achieve results for each child. Schools and parents should be granted the flexibility (e.g., waivers for performance) currently barred by federal and state law and local practice to design educational programs that meet the needs of children within a results-based framework.

Commissioners and expert witnesses have repeatedly stressed that parents are the key to success for students with disabilities. There has been much discussion and concern about what happens

when parents and schools disagree about the dispute resolution process. Though there are good models for community and parent outreach, many low-income families and underserved populations are still not involved in their children's education.

Consistent with the *No Child Left Behind* Act, parents need access to meaningful information about their children, adequate yearly progress, and how assessment serves as a diagnostic tool that measures not only a child's strengths and weaknesses, but also their yearly progress. This information can help teachers develop evidence-based practices that they can then use to drive classroom instruction that will benefit each student. The Department of Education should increase support for programs that promote parental understanding of their rights and educational services under IDEA so parents can make informed decisions about their children, particularly programs that serve families who have not traditionally been informed or involved in their children's education.

States and local schools must increase parents' and students' flexibility to choose educational services. Parental and student choice is an important accountability mechanism and IDEA should include options for parents to choose their child's educational setting. States must be provided the flexibility by the federal government to offer school choice options.

Increasing school choice options is an effective means of achieving accountability in the broad system if parents are able to more easily choose where their child attends school. Parental choice can be a valuable tool in serving the educational needs of children with disabilities. The many parents that provided comments before the Commission persuade us that incorporating this option into the next reauthorization of IDEA must be seriously considered.

One way to increase choices for students with disabilities is simply to give states more flexibility to use IDEA funds for this purpose. For states that choose to provide more options for students with disabilities, IDEA should make it *possible* for IDEA funds to follow students to the schools their families choose. The *No Child Left Behind* Act takes an additional step, *requiring* states to offer choices for students in schools that do not make adequate progress. IDEA should include parallel requirements, mandating that states allow IDEA funds to follow students with disabilities when they choose to opt out of chronically failing schools or districts. As funding follows students, so should accountability. States should measure and report outcomes for *all* students benefiting from IDEA funds, regardless of what schools they choose to attend.

The Commission heard testimony from Harvard University Economics Professor Caroline Hoxby suggesting that in order to work properly for students with disabilities, choice programs must provide schools with appropriate resources.<sup>33</sup> Otherwise, schools and districts will not be sufficiently eager to educate students with disabilities—especially those with the most significant needs. Consequently, while federal policy should not require them to do so, the Commission recommends that in designing optional choice programs, states allow all available revenues to which the student would have otherwise been entitled—not just IDEA funds—to follow students to the schools their families choose. The increasing numbers of parents who have chosen charter

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<sup>33</sup> See Commission meeting held in Miami on April 9, 2002, transcript pages 86-142.



schools<sup>34</sup> leads us to recommend further that attention be paid to providing the statutory and regulatory support necessary to maintain and promote this option for children with disabilities.

Since public charter schools are typically small and often independent from local school districts, they face unique challenges in providing special education. To create an environment in which charter schools can meet the needs of students with disabilities, states need to give charter schools equitable access to special education funding as well as programs that help small local education agencies provide services, and the same technical assistance opportunities that are available to districts.

Though each state may approach these issues differently, the Commission recommends that federal policy provide strong incentives or requirements for states to take these actions. Federal policy should also provide the flexibility states need in this area, including the flexibility to define charter schools' local education agencies status in ways that maximize the capacity of such schools to meet the needs of children with disabilities. In addition, federal policy should make clear that families working with IEP teams can choose charter schools and other choice options that target students with disabilities, even if these offer relatively restrictive environments, as long as those programs can appropriately serve the student.

The Commission recommends greater flexibility in using federal funds allow states to create parental choice programs while preserving the student's basic civil rights. However, we recommend that any such program also require schools and programs to be held to the same accountability requirements for public schools, assuring that students achieve excellent results.

States and localities must treat IDEA's least restrictive environment (LRE) issues as basic civil rights and essential to special education, by making LRE a matter of results-based services rather than a matter of procedural safeguards. Least restrictive environment is a statutory requirement that applies to all students with disabilities. The central issue is to establish the optimal LRE to effectively educate students in the most integrated setting possible. The Commission recognizes that it may be appropriate for some children to receive some time or supplemental services in smaller group settings. LRE is designed to individually determine the most appropriate educational setting for each student. Students with disabilities are best served with their nondisabled peers whenever possible and consistent with the individual needs of the child and the wishes of the parent. The placement provisions should make it clear that if the current needs of the student preclude services in the regular educational setting, a specific goal of all possible educational and school social experiences with nondisabled peers be included. The provision must include the requirement that, as appropriate, school systems provide supplementary aids and services to enable students with disabilities to participate in nonacademic and extracurricular activities with their nondisabled peers.<sup>35</sup>

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<sup>34</sup> See Center for Education Reform: Charter school highlights and statistics (2002).  
<http://edreform.com/pubs/chglance.htm>.

<sup>35</sup> The least restrictive environments provision improvements are more fully described in testimony provided on April 16, 2002, in Brooklyn, New York by Dorothy Kerzner Lipsky, Ph.D., Director of the National Center on Educational Restructuring and Inclusion at the Graduate School and University Center at the City University of New York.

This Commission finds it important to reflect on the basic rights of children with disabilities to be educated in the least restrictive environment appropriate to the child and his or her educational needs. We are deeply concerned that many children with severe disabilities, including those children with autism or emotional disturbance, are relegated to segregated educational settings simply because of their disability. Despite decades of successful inclusion of children with disabilities in regular schools that would not be possible without the basic protections of IDEA and its predecessors, there are children with disabilities who are still segregated simply because their disability creates difficulties in providing integrated educational experiences.

Members of this Commission viewed situations where children with severe disabilities—for no apparent justifiable educational purpose—were separated from the regular school building and consigned to secondary settings because of their disability. We reaffirm our commitment to the fundamental belief that children with all types of disabilities must be included to the maximum extent appropriate in their school community. We also endorse the basic principles of providing special education services to children who are removed from their current educational placement for disciplinary reasons.<sup>36</sup>

Thus, leaving no child behind also means leaving no children with disabilities behind. These children include students at high risk of academic difficulties because of emotional disturbance and those children with disabilities in foster care or juvenile justice facilities, from the early elementary grades through high school. We must raise the bar for these children with disabilities to reach their potential. Making least restrictive environment a focus on results-based services will move services for children with disabilities in the most integrated setting possible.

Each student's IEP should seek to determine the setting or settings that are most appropriate and effective in achieving positive outcomes and results, consistent with the least restrictive environment. The Commission believes that in many states the rate of progress in meeting the LRE requirement is unsatisfactory. States should be monitored by the U.S. Department of Education on this requirement. In addition, the Department should develop more adequate measures of monitoring compliance on this requirement.

#### Improve the IEP Process, Prevent Disputes and Improve Dispute Resolution

Parent contact with the school special education system begins with a referral, and then eligibility determination. Once determined eligible, children and their parents begin the IEP process. This process can be overwhelming for parents. Therefore, the Commission recommends IDEA support training for skilled facilitators to run IEP meetings in a way that gets parents and school staffs to win-win solutions for children.

IDEA should encourage states—perhaps through financial incentives—to develop early processes for conflict avoidance and reaching agreement on IEPs. Early processes such as expert IEP facilitation, conciliation, telephone intermediation and training to increase collaboration and problem solving skills of school staff and parents can help avoid expensive disputes and promote

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<sup>36</sup> See *Honig v Doe*, 484 U.S. 305, 108 S.Ct. 592 (1988), which we hold as a fundamental principle of special education for children with disabilities who are removed from a current educational placement.

efforts to help students. This could diminish the number of disagreements requiring use of procedural safeguards and the associated expenditures of time and money.

Where disputes do arise, IDEA must permit parents and schools to enter binding arbitration and ensure that mediators, arbitrators and hearing officers are trained in conflict resolution and negotiation. We recommend IDEA require states to make mediation available anytime it is requested and not only after a hearing request. Numerous parents, teachers and school administrators complained during the Commission's public sessions about the excessive focus on due process hearings and litigation over special education disputes. Disputes of all sorts divert parent and school time and money, and waste valuable resources and energy that could otherwise be used to educate children with disabilities. Furthermore, the Commission is concerned there is no reliable national data set available indicating the number of due process hearing requests and whether that number is rising or falling, and that conflicts exist among data on dispute results.

More than one school administrator voiced concerns about the growing threats of litigation when parents and schools cannot agree on the appropriate level of special education and related services to provide. These threats create an adversarial atmosphere that severely limits the ability of parents and schools to cooperate. The threat of litigation alone has costs for teachers, students and taxpayers: the cost of attorneys in actual hearings and court actions; the cost of attorneys and staff time in preparation for cases that do not reach the dispute resolution system; and the cost of paperwork driven by districts believing that extensive records help prevent lawsuits. These costs and the dissatisfaction with the system merit serious reform.

One enlightening witness before the Commission was Jim Rosenfeld, executive director of the EDLAW Center and the Council of Parent Attorneys and Advocates, who has spent his career advocating on behalf of parents in special education suits. Mr. Rosenfeld testified that,

“there should and must be a wide variety of dispute resolution procedures available for both parents and school districts to use. . . . One additional dispute resolution procedure might be voluntary but binding arbitration available only upon the election of both of the parties. I suspect many parents and schools would be willing to waive their rights of appeal from such decisions if they were fair, impartial and fast.”<sup>37</sup>

The Commission agrees and recommends IDEA permit the creation of voluntary binding arbitration systems. There is simply no reason that parents and schools should not have the option of waiving—with full knowledge of the consequences—their right to further procedural protections and appeals in the IDEA due process system in exchange for a speedier and more assured resolution.

Binding arbitration, mediation and due process hearing process should be consistent with the recommendation of witness and parent advocacy attorney William Desault: use independent people who are trained in mediation, arbitration and administrative conflict resolution.<sup>38</sup> Too many mediators and administrative hearing officers come from an education background.

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<sup>37</sup> See Commission meeting held in San Diego, CA on April 23, 2002, transcript page 141.

<sup>38</sup> Ibid, pages 157-161.

Instead, the Commission recommends states and schools take steps to hire these individuals from outside the education or disability-advocacy communities. More specifically, they should be trained in mediation, and dispute and conflict resolution. Drawing from the disability or school communities helps poison the goodwill among the parties and clearly leads to fewer resolutions in a timely and fair manner.

### Conclusion

The Commission concludes that innovative means of increasing education system accountability often require what some may argue to be radical changes. The recommendations outlined here may well be interpreted as such, and perhaps justly so. Ultimately, efforts to achieve excellence in special education services must focus on one objective—providing a free appropriate public education so that children with disabilities may become self-directed adults able to contribute to their communities to the maximum extent possible.

## Post-Secondary Results for Students with Disabilities and Effective Transition Services

**RECOMMENDATION—SIMPLIFY FEDERAL TRANSITION REQUIREMENTS IN THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT:** These provisions should provide clear steps for integrating school and non-school transition services, and closely link transition services to the goals in each student’s individualized education plan.

**RECOMMENDATION—MANDATE FEDERAL INTERAGENCY COORDINATION OF RESOURCES:** Multiple federal policies and programs must be required to work together to improve competitive employment outcomes and increase access to higher education for students with disabilities. An Executive Order mandating existing agency coordination and pooling of existing funds will improve transition services. Further, the bridge between federal special education policy and rehabilitation policy must be strengthened.

**RECOMMENDATION—CREATE A REHABILITATION ACT REAUTHORIZATION ADVISORY COMMITTEE:** The Secretary of Education should create an advisory committee to examine the reauthorization of the Rehabilitation Act.

**RECOMMENDATION—SUPPORT HIGHER EDUCATION FACULTY, ADMINISTRATORS AND AUXILIARY SERVICE PROVIDERS TO MORE EFFECTIVELY PROVIDE AND HELP STUDENTS WITH DISABILITIES TO COMPLETE A HIGH QUALITY POST-SECONDARY EDUCATION:** Support and hold accountable all post-secondary institutions receiving federal funding for using evidence-based, best-practice programs and practices. Fund programs to educate post-secondary education personnel about modifications and accommodations for students with disabilities that have been proven to increase graduation rates and entry into the workforce.

The Commission finds students with disabilities are significantly unemployed and underemployed upon leaving school compared to their peers who do not have disabilities.<sup>39</sup> Too many students with disabilities leave school without successfully earning any type of diploma,<sup>40</sup> and they attend post-secondary programs at rates lower than their nondisabled peers.<sup>41</sup> Adults with disabilities are much less likely to be employed than adults without disabilities. Unemployment rates for working-age adults with disabilities have hovered at the 70 percent level for at least the past 12 years, which the Commission finds to be wholly unacceptable. Even when employed, too many adults with disabilities who are employed earn markedly less income than their nondisabled peers.<sup>42</sup> These statistics reflect failures in the present systems’ structures.

“Post-school success is the ultimate indicator of school reform.”—Commissioner Doug Gill

<sup>39</sup> Trupin, Sebesta, Yelin, & Laplante, 1997; National Organization on Disability, 2000; Zemsky & Odell, 1994; McNeil, 2000.

<sup>40</sup> Office of Special Education Programs, U.S. Department of Education, 1996.

<sup>41</sup> Getzel, Stodden, & Briel, 2001; Hurst & Smerdon, 2000; Stodden, 2001.

<sup>42</sup> U.S. Census Bureau, Survey of Income and Program Participation, 1997.

To improve the future for many children with disabilities, the Commission proposes fundamental changes to IDEA and the Rehabilitation Act of 1973. To optimize results for children, youth and adults with disabilities, the Commission recommends that both of these federal statutes should use similar terminology to allow effective integration of their services and requirements. The Commission finds that IDEA's transition regulation requirements should be revised because these requirements are too convoluted to implement in practical ways. We find that the overriding barrier preventing a smooth transition from high school to adult living is the fundamental failure of federal policies and programs to facilitate smooth movement for students from secondary school to competitive employment<sup>43</sup> and higher education.

### Funding and Coordinated Federal Program Services

The Commission finds that several federal programs fail to direct the necessary resources to increase the successful transition of students with disabilities.<sup>44</sup> For instance, IDEA and the Rehabilitation Act's vocational rehabilitation program have no links based on student results. While each mandates some level of cooperation, the lack of post-school data-tracking under IDEA and the lack of a Rehabilitation Act obligation for active involvement of vocational rehabilitation counselors in each student's transition planning, contributes to poor student outcomes. In addition to IDEA and the Rehabilitation Act, programs authorized under the Higher Education Act do not sufficiently provide transition services to meet the needs of students with disabilities. GEAR UP and TRIO's Upward Bound and Talent Search programs should place a greater emphasis on serving students with disabilities. These federal programs must be amended to provide funding that is targeted to direct services for students with disabilities.

"Americans with disabilities should have every freedom to pursue careers, integrate into the workforce and participate as full members in the economic marketplace."—President George W. Bush, announcing the New Freedom Initiative.

The Social Security Act's Ticket to Work Program<sup>45</sup> must also focus on helping students with disabilities find employment when they finish school. Although this new program should help lead to successful competitive employment for people with disabilities, employment networks under this program should become closely involved with helping eligible individuals with disabilities obtain employment after they finish school.

The Commission finds that if existing federal policies and law were more effectively implemented, the low rates of individuals with disabilities obtaining competitive employment or accessing higher education would dramatically improve. An example of inadequate federal

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<sup>43</sup> This Commission wishes to be clear about our use of the term "competitive employment." Our view is that employment be in the same settings and under the same circumstances as that of people without disabilities, with or without reasonable accommodations.

<sup>44</sup> The Commission heard considerable anecdotal evidence that a lack of health care coverage discourages people with disabilities from seeking employment. More individuals with disabilities want to work, but hesitate because of a fear of losing their Medicare Part A health care coverage. However, recent changes to the Ticket to Work and Workforce Incentives Improvement Act expanded Medicare Part A for Social Security Disability Insurance recipients who obtain employment from the previous four years to 8½ years.

<sup>45</sup> See the Ticket To Work And Work Incentives Improvement Act of 1999.

agency coordination that adversely affects improved outcomes for students with disabilities is the ongoing lack of coordination between the U.S. Department of Education's Office of Special Education Programs, which is responsible for administration of IDEA, and its Office of Vocational and Adult Education (OVAE), which is responsible for administration of the adult education sections of the Workforce Investment Act of 1998 (WIA).

Students with disabilities who dropped out of regular high school between the ages of 16 and 21 are prevented from receiving both adult education services funded under WIA, and simultaneous special education support services under IDEA.<sup>46</sup> This is a significant problem for students with disabilities who, for whatever reason, leave high school before earning a regular high school diploma but return to adult education programs to earn a general education diploma.

WIA<sup>47</sup> limits adult education to individuals who are not enrolled or required to be enrolled in a secondary school. Yet, some WIA programs are themselves secondary, not post-secondary, e.g., GED and pre-college vocational training programs. Thus, a student cannot be enrolled in a secondary school and also be enrolled in adult education under WIA, even if the child's IEP team determined it appropriate. Many students with disabilities who left high school before earning a regular high school diploma but who are still entitled to a free appropriate public education under IDEA are barred from receiving the services they need. This conflict makes no practical sense and demonstrates the classic barrier in existing federal programs that can easily be corrected to better serve students with disabilities.<sup>48</sup>

The Commission recommends the President issue an Executive Order mandating federal interagency collaboration and directs the use of existing federal program funds to focus on direct transition services within the limits of those statutes. Federal programs must be required to better coordinate their services to focus on reaching people with disabilities early. The funding for more focused transition services now exists. Unfortunately, these funds are spread across multiple agencies and the programs do not target transition services or foster coordination with other federal programs. We find these programs do not provide states the flexibility needed to develop comprehensive programs using federal funds already available. States must be allowed to coordinate federal funds from the various agencies into specific transition services that best serve each state's students with disabilities. To the extent that statutes bar such use of funds, agencies should be obligated to report on the administrative, regulatory or statutory barriers that prevent coordination.

The Commission recommends all federal agencies collaborate to resolve obvious administrative barriers. Further, a portion of federal funds from each of the federal grant programs that directly impact improvement in transition should be committed and tied to performance outcomes and results, i.e., data related to postsecondary education and competitive employment obtained by

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<sup>46</sup> Children in foster care have drop out rates twice their peers and are less likely to graduate from high school. They have high rates of emotional and behavioral problems yet often do not receive mental health services.

<sup>47</sup> See WIA section 203(1).

<sup>48</sup> This matter is either a statutory conflict or an issue of interpretation by the OVAE office. If it is an issue of interpretation, an Executive Order directing interagency coordination will lead to the matter being resolved by changes in administrative practice. If it is a statutory issue, the Executive Order will lead the offices to identify the need for WIA to be amended to allow IDEA eligible students who drop out of school to access adult education services. In either event, the example demonstrates the value of such an Executive Order.

students with disabilities who are transitioning from school to adult activities. This linkage should be consistent with recommendations in the Finance and Accountability sections of this report. As with these performance changes to IDEA, other federal programs can be strengthened together and tied to targeted funds for clear measurable post-school results.

The Accountability section of this report calls for states to measure, report and hold local education agencies accountable for students' post-secondary results under IDEA. In addition, other federal legislation related to transition services should similarly require agencies to measure, report and be held accountable for students' success in competitive employment and post-secondary education.

The Commission finds that increased enforcement by OSERS of interagency agreements,<sup>49</sup> which are now required between SEAs and state vocational rehabilitation agencies under IDEA and the Rehabilitation Act, will improve coordination and collaboration between these agencies. In both laws Congress called for schools to work in collaboration with other agencies to assist students with disabilities in the transition from school to employment and independent living. The 1998 Rehabilitation Act amendments, at a minimum, required, "consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment." The goal of these provisions is to assure seamless service delivery. This practice is not occurring with the frequency Congress intended.

#### Advisory Committee to Study the Rehabilitation Act of 1973

The testimony of the many experts, parents and individuals with disabilities who appeared before the Commission compels us to suggest the creation of an advisory committee to examine the current status of the Rehabilitation Act of 1973.<sup>50</sup> We propose that the U.S. Secretary of Education create an advisory committee to conduct a review of the issues surrounding that Act. Such a committee can serve two important functions. First, a review of the information and a close examination of the issues related to the Rehabilitation Act will provide an opportunity for federal and state agencies to consider how they can help increase the numbers of individuals with disabilities who are competitively employed. Second, the committee would build on the useful suggestions for improving the delivery of transition services by Rehabilitation Act funded agencies outlined by this Commission, particularly federally funded state vocational rehabilitation agencies. Not enough interagency activity occurs between our schools and vocational rehabilitation agencies. The benefit will be improved services to students with disabilities who are transitioning from school to employment or post-secondary education.

#### Transition Services

The Commission finds that transition services are not being implemented to the fullest extent possible and that meaningful results do not happen. IDEA's federal requirements are too

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<sup>49</sup> The statutory provisions governing this agreement are found in sections 612(a)(11-12) of IDEA and sections 101(a)(8)(B) and 101(a)(11)(D) of the Rehabilitation Act.

<sup>50</sup> The 1998 Amendments to the Rehabilitation Act were enacted as Title IV of the Workforce Investment Act of 1998 (P.L. 105-220).



complex for educators, students, parents and others, such as vocational rehabilitation program counselors, to understand what the law requires and when it is required.

To illustrate how confusing the statute, regulations and other requirements are, an individualized education program needs a “statement of transition service needs” for all students with disabilities at age 14, while at age 16, a “statement of needed transition services” is required.

However, neither a reasonably clear explanation is provided explaining the differences between these two statements, nor is any research-based evidence supporting the delineation for having one requirement at age 14 and another at age 16. Students about whom these statements are written *are required* to be invited to the IEP meeting if a purpose of the meeting will be the consideration of the student's transition service needs, needed transition services or both. At other times, the student is included on the IEP team, *if appropriate*. However, the Commission finds that it is *always* appropriate for students with disabilities to be invited and present at IEP meetings.

In addition, the statute, regulations, and OSEP policy guidance require a statement of the interagency responsibilities, “if appropriate.” These interagency agreements are supposed to link students to useful services beyond those provided by the school. However, no explanation is provided about how school personnel should go about uniting these services with those provided by the school or how to integrate transition services provided by outside agencies with the IEP. This confusion helps assure a disconnect between services and outcomes.<sup>51</sup>

In testimony before the Commission, one expert provided a striking example of the lack of implementation that is too common in the delivery of transition services. Susan Brody Hasazi, Ed.D., stated that in reviewing a transition plan of a junior high student who had a moderate hearing impairment, there were no goals, objectives or activities related to the student's career aspirations listed elsewhere in his IEP. Instead, the goals that were listed focused on improving his articulation and offered little in terms of helping the student achieve his career goals of becoming a merchant marine.<sup>52</sup>

Hasazi reported this lack of complete transition planning and linkage of transition services to meet the needs of individual students was not unusual. Her testimony exemplifies many similar problems brought before this Commission and reveals that school personnel generally do not know how to interpret and meaningfully apply the complex transition requirements. We are also concerned that more effective educator training to empower their students with essential self-advocacy skills needs to be done.

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<sup>51</sup> For example, one OSEP funded study reviewed IEPs and transition plans in nine school districts and found that the long-term transition goals were, for the most part, not related to the annual goals on the student's IEP (Hasazi, S.B., Furney, K. and Destefano, L., 1999).

<sup>52</sup> See Testimony provided by Susan Brody Hasazi, Ed.D., before the Commission on April 18, 2002, in Nashville, Tennessee, transcript page 58.

“School personnel must be provided clear and concise rules and regulations outlining how to provide effective and relevant transition services to students with disabilities seeking to enter the workforce immediately following high school as well as for students planning to attend college. The IDEA’s current requirements are too complex and do not adequately meet this need.”—  
Commissioner Douglas Hunt, Ph.D.

The Commission finds that IDEA must be changed to clearly link students’ long-range transition goals to the development of the annual IEP goals, objectives and activities. While some may argue this requirement is now in place, our own reading of the transition language in the regulations leave us confused about what is required, when it is required, who must be involved, etc. Students and teachers should not need to waste time interpreting “policy wonk” terms and concepts. They should be working together to determine how they can best serve young people with disabilities and their long-term goals.

These changes should redefine transition services as a results-oriented process focusing on post-school and in-school results including academic and nonacademic alternatives. The arbitrary age 14/16 distinctions in IDEA should be replaced with a uniform standard at an appropriate age or school point readily understandable by teachers and students. Current requirements mandating interagency agreements must be revised to clearly describe cooperative and collaborative networking mechanisms between schools, state vocational rehabilitation agencies and other community organizations charged with providing services to individuals with disabilities.

While the Commission wholeheartedly supports strong academic achievement for all students, it recognizes that academic achievement alone will not lead to successful results for students with disabilities. Students with disabilities need educational supports and services to promote these skills throughout their school lives. However, these supports and services may need to intensify during the transition years. Such skills include self-determination, self-advocacy, social skills, organizational skills, community and peer connection, communication, conflict-resolution, career skill building and career development and computer/technological competency.

### Competitive Employment and Postsecondary Education

The Commission finds that students with disabilities who choose nonacademic alternatives after completing high school are not provided adequate preparation and supports to successfully reach their goals. Only 34 percent of adults with disabilities ages 21 through 64 reported being employed.<sup>53</sup> Even more alarming, working-age adults with disabilities earn significantly less than adults without disabilities.<sup>54</sup>

Research suggests that efforts must begin in the early school years to ease successful transitions to meaningful employment. Opportunities for career development, including social interactions, must be provided to all students with disabilities, including minority students with disabilities,

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<sup>53</sup> N.O.D./Harris 2000 Survey of Americans with Disabilities.

<sup>54</sup> Ibid.

throughout their K-12 educational experiences. Such preparation will improve their employability.

“I am concerned that we also provide transition services within the context of each student’s culture. It is important for us to recognize the values of those students and parents we serve, especially when we collaborate in providing transition services.”—Commissioner Katie H. Wright, Ed.D.

In addition, the Commission finds that students with disabilities who elect to continue their education at the postsecondary level rather than immediately enter the workplace also face significant barriers to achieving their goals. According to testimony before the Commission, students with disabilities are less likely than students without disabilities to complete courses in high school that prepare them to succeed in college. OSEP’s National Longitudinal Transition Study reported that students with disabilities who remained in high school for four grades accumulated an average of 12 credits in academic subjects, compared with 15 academic credits earned by students without disabilities.<sup>55</sup>

Moreover, students with disabilities are less likely than their peers to earn a college degree. Adjustments to college life for students with disabilities pose challenges. Many college students (with and without disabilities) are faced with new physical and social environments. These adjustments are compounded for students with disabilities because they are faced with architectural barriers and attitudinal misperceptions about their skills and abilities by faculty, staff and their nondisabled peers.<sup>56</sup>

The Commission finds that students with disabilities entering college are often ill prepared to negotiate the complexities of college life. Schools and associated agencies can bridge this gap by providing work experiences, career and academic counseling, job coaching and mentoring opportunities while encouraging students to enroll in the kinds of academic courses that will prepare them to succeed in work and college. The Commission also finds that the Department of Education should support research to determine factors that help students with disabilities make the transition into college, as well as model best-practice programs based on this scientifically based research.

### Students with Disabilities Who Do Not Receive Special Education Services

Not every student with a disability in elementary, middle or high school receives special education services because his or her disability does not impair their ability to learn to such a degree that special education services are necessary. A common example of such a student would be one who uses a wheelchair for mobility but has no other physical or mental disability. For students with such disabilities, basic modifications to the physical accessibility of the school generally provide the ability to perform well in the regular education classroom. In these circumstances students with disabilities have specific civil rights under section 504 of the Rehabilitation Act that require what are known as “504 Plans.” These plans usually outline the

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<sup>55</sup> NLTS, 1993. See also the Accountability section of this report.

<sup>56</sup> Justesen & Justesen, 2000.

modifications and accommodations a student will receive to participate in their regular classrooms and generally have basic transition requirements similar to IDEA IEPs.

However, even *three decades* after the passage of the Rehabilitation Act section 504, little data and research exist about the effectiveness of 504 Plans and the number of 504 Plan children with disabilities gaining employment or moving onto higher education. We strongly recommend that the Rehabilitation Services Administration immediately begin to work collaboratively with the Office of Special Education Programs and other agencies to track such data and develop research priorities to inform these students.<sup>57</sup>

### The Role of Parental Involvement

Throughout the course of the Commission's review of the issues related to federal, state and local special education programs, numerous parents provided insight into their perceptions of transition services for their children with disabilities. This input captured the attention of the Commission and has left a lasting impact upon each Commissioner. Therefore, the Commission deems it particularly important to devote the final portion of our report to the issue of parental involvement in the development and delivery of transition services.

In testimony before the Commission, parents reported a lack of information regarding the purpose and processes associated with transition services, including information related to community agencies and resources. In addition, parents reported that effective strategies for increasing parental participation were not routinely implemented. Parents desire relatively simple measures such as receiving information about the IEP and community resources, creating an atmosphere of open communication, frequently communicating about school services and activities, and formally recognizing the valuable role that parents and students play in the transition process. Parents of children with disabilities also wanted revised, clear requirements requiring their full inclusion at all stages of the process—from inception to implementation of all transition services.

“Parents of children receiving special education must be provided every opportunity to contribute to the type and extent of transitions services provided to their children and this should be reflected in the IDEA’s regulations.”—Commissioner William Berdine, Ed.D.

The Commission recognizes that parents and their children are the most qualified individuals to provide information about the needs, wants and goals of their child as they transition from school to post-school activities. Therefore, the Commission recommends that IDEA include provisions providing for the full participation of students and their parents in the determination of the type and delivery of transition services provided. Parents also need support in navigating the transition from the entitlement model under IDEA to the eligibility model used by other programs providing post-school services to people with disabilities.

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<sup>57</sup> While the Commission recognizes that the U.S. Department of Education’s Office for Civil Rights is responsible for enforcing section 504, RSA would likely be the appropriate agency to collect and analyze this data with OSEP.

## Conclusion

The Commission is convinced that dramatic revisions of IDEA's transition provisions must occur. Once IDEA is reauthorized, the subsequent federal regulations must provide greater clarity. The regulations must include steps explaining in plain, uncomplicated language what is required. We also stress the need for continued data collection and related research to develop the finest transition-related practices and to develop policy closely linking the goals of any child's IEP directly with transition goals. All students with disabilities must be provided support services in their education that prepares them to succeed in competitive employment and postsecondary education settings, and their parents must be full participants throughout this process. The Commission believes the formation of an advisory committee to assist the Secretary of Education in establishing recommendations for improving the Rehabilitation Act will complement these recommendations to create a smooth transition from secondary school to adult life and excellence in transition planning and service delivery.

## **Teacher and Administrator Preparation, Training and Retention**

**RECOMMENDATION—RECRUIT AND TRAIN HIGHLY QUALIFIED GENERAL AND SPECIAL EDUCATION TEACHERS:** States and districts must devise new strategies to recruit more personnel who are highly qualified to educate students with disabilities. State licenses and endorsements for all teachers should require specific training related to meeting the needs of students with disabilities, and integrating parents into special education services. States must develop collaborative career-long professional development systems that conform to professional standards.

**RECOMMENDATION—CREATE RESEARCH AND DATA-DRIVEN SYSTEMS FOR TRAINING TEACHERS OF SPECIAL EDUCATION:** Formal teacher training should also be based upon solid research about how students learn and what teacher characteristics are most likely to produce student achievement. State Education Agencies (SEAs) and institutions that train teachers and administrators should implement data-driven feedback systems to improve how well educators educate children with disabilities.

**RECOMMENDATION—INSTITUTE ONGOING FIELD EXPERIENCES:** Post-secondary institutions and state and private organizations that train teachers should require all students to complete supervised practicum experiences in each year of their training. These practices provides them with a comprehensive view of the full range of general education, special education and inclusive settings or service delivery models for students with disabilities.

**RECOMMENDATION—REQUIRE RIGOROUS TRAINING IN READING:** States and school districts must implement more rigorous requirements for training educators in scientifically based assessment and intervention in reading. General and special education teachers must implement research-based practices that include explicit and systematic instruction in phonemic awareness, decoding, fluency, vocabulary and comprehension.

**RECOMMENDATION—REQUIRE PUBLIC REPORTING:** Title II of the Higher Education Act should require programs for teacher education, administrative personnel and related services personnel to publicly report the performance of general education and special education program graduates relative to educating students with disabilities.

**RECOMMENDATION—INCREASE SPECIAL EDUCATION AND RELATED SERVICES FACULTY:** Institutions of higher education should recruit and train more fully qualified professors of special education to address the shortage of special education and related services doctorate holders who are qualified to teach our nation's future educators and prepare them to achieve results for diverse learners.

**RECOMMENDATION—CONDUCT RESEARCH:** The Department of Education in collaboration with other federal agencies should conduct research to identify the critical factors in personnel preparation that improve student learning and achievement in schools. While recent research has begun to determine critical factors in instruction, more high-

**quality research is needed on instructional variables that improve achievement by students with disabilities.**

Our nation is less likely to serve children with disabilities well because of our failure to appropriately train, recruit and mentor special education teachers. This will not only undermine our efforts to increase the achievement of students with disabilities; it will frustrate our efforts to improve our schools and increase the academic achievement of *all* children.

In response, the Commission recommends a series of changes to our teacher education programs for special educators, state licensure requirements, public accountability data systems and the translation of research knowledge into real classroom practice. Most notably, the recommendations will have major implications for general education teacher training programs, and local school induction programs for all teachers.

Put simply, too many general education teachers lack the skills to teach children with disabilities effectively and too many view serving those children as the responsibility of special education teachers. They lack those skills because too many teacher colleges and other professional development programs have failed to provide them that knowledge. Those teacher preparation programs fail to provide such background because many faculty lack the valid, scientific knowledge necessary to teach children with disabilities today. These problems are exacerbated by shortages of special education teachers, administrators with special education knowledge, and post-graduate instructors. The Commission strongly recommends that teacher colleges, state educational agencies and local schools implement the above recommendations to prevent the decline in the quality of our nation's teachers.

### The Shortages

There is a shortage of personnel adequately trained to provide special education and related services to children with disabilities. According to the U.S. Department of Education funded SPeNSE study<sup>58</sup> more than 12,000 openings for special education teachers were left vacant or filled by substitutes in 1999-2000.

The growing shortage of special education teachers alarms this Commission. Ninety-eight percent of school districts report special education teacher shortages.<sup>59</sup> Roughly 10 percent of special education positions nationally—39,140 positions—are filled by uncertified personnel who serve approximately 600,000 students with disabilities.<sup>60</sup> The proportion of special education positions held by uncertified personnel is even higher in some states.<sup>61</sup>

### Teacher Certification and Licensure

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<sup>58</sup> SPeNSE, Study of Personnel Needs in Special Education, sponsored by OSEP, included telephone interviews with a nationally representative sample of local administrators, special and general education teachers, speech-language pathologists and paraprofessionals in spring and fall 2000. For more information, see <http://www.spense.org>.

<sup>59</sup> ERIC, 2001; Fideler, Foster, & Schwartz, 2000.

<sup>60</sup> Twenty-third Annual Report to Congress (USDE, 2001).

<sup>61</sup> Smith, McLeskey, Tyler, & Saunders, 2002.

These shortage figures only address certification. Certification is not a direct analog for qualification, and data do not indicate that certification necessarily provides a qualified teacher. Therefore, we must provide better indicators of what skills and abilities constitute competence for a qualified educator to achieve results for a student with a disability. In addition to the shortage of qualified special education teachers, the U.S. Department of Education estimates we will need more than 200,000 new special educators during the next five years, but colleges and universities have the capacity to prepare only about half that number.<sup>62</sup>

“Consistently, the single biggest factor affecting academic progress of populations of children is the effectiveness of the individual classroom teacher—period. The sequence of teachers that a child has will add more to their own personal academic achievement than probably any other single factor.”—William L. Sanders, Ph.D.

This Commission strongly believes in the teaching profession, yet we find that existing state systems of teacher licensure for special educators, with their various provisions for alternative, provisional and emergency certification, must be radically overhauled. Our review of relevant literature and the testimony provided before this Commission compel us to call attention to the need for reform in teacher certification and licensure. If for no other reason, we find no direct relationship between increased results for children with disabilities and whether a teacher holds a certification or licensure.

While all 50 States and the District of Columbia require special education teachers to be licensed, the form and content of that licensing procedure varies greatly. Whether that license is in addition to a general education credential varies widely from state to state. Some states require specialized licenses in individual disability categories in addition to general educational preparation.<sup>63</sup> Many colleges and universities offer baccalaureate programs in special education and also provide access to the courses that may be required to fulfill licensure requirements, that variously include, among others, educational psychology, legal issues of special education and child growth and development, as well as general knowledge and skills required to teach children with disabilities.<sup>64</sup>

State licensure systems cannot ensure mastery of essential content or skills, largely because their means of assessing mastery are unclear. Rather, states presume that a teacher who has completed these requirements and then passed a low-level assessment is competent.

Therefore, we find that existing special education certification must be more focused on results and measurable qualifications of educators than now exists. What is particularly disturbing is that this Commission heard from leading teacher education researchers that no research exists as to whether certification and years of teaching experience are reliable predictors of student achievement for students with disabilities receiving special education. This is an area of research

<sup>62</sup> Kozleski, Mainzer, & Deshler, 2000; Smith et al., 2002.

<sup>63</sup> Thomas Parrish, et al. note the current trend in special education licensure is, “moving toward licenses in fewer and broader categories....” For the most part, special education licensure, “maintains a separate set of competencies linked to disability type....” See Parrish, Thomas B., et al., *Funding Special Education* (1999), pages 52-53.

<sup>64</sup> See Bureau of Labor Statistics, <http://www.bls.gov/oco/ocos070.htm>.



we desperately need in order to inform the educational community of evidence-based instructional practices for students with disabilities.

### Teacher Preparation

Although there is currently not enough strong research about the teacher characteristics that affect student achievement, we do know that certain factors have a strong effect in producing student achievement. A synthesis of research shows that:

- Teachers with higher levels of general verbal ability tend to be more effective.
- Teachers who have developed knowledge of the subject they teach by majoring in it in college are more effective, particularly for math and science in middle and high school.
- Teachers who have had intensive professional development in the curriculum they are expected to transmit are more effective.

Teacher preparation institutions must move from folk wisdom, weak research and opinion on what are important characteristics of effective teachers and begin to focus on helping to strengthen the teacher competencies that have clear data as producing student gains.

The current system of pre-service and in-service education is not sufficient to produce personnel who can ensure students with disabilities achieve satisfactory outcomes. The high rate of attrition for both general and special education teachers is partly attributable to this less than robust system. All too often curricula and methodologies utilized in colleges of education are not empirically connected to improved student achievement. And, too often professional development offered to new and veteran teachers is inadequate in impacting student achievement. The Commission finds that both pre-service and professional development training must ensure that instruction in pedagogy is research-based and linked directly to student learning and achievement.

Many special education programs share attributes of effective general teacher preparation programs. Moreover, unified teacher education programs (i.e., integrated special/general education programs) more closely resemble all the attributes of effective teacher education programs, and may be better positioned to help students in general and special education develop the skills noted above.

Early field-based practical experience for teacher education would help students know what will be expected of them in teaching. The Commission recommends that college and university teacher training programs provide exposure to the classroom environment and the practice of teaching early in the first year of teacher training. Preparation of teachers must be supervised and relevant with pre-service teachers receiving continual guidance and feedback as well as induction to the teaching profession. A principal goal of this experience is the ability to integrate and apply knowledge productively and reflectively in practice.<sup>65</sup> The Commission recommends

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<sup>65</sup> National Research Council, 1998.

that this type of practicum experience be integrated into all college teacher preparation programs.<sup>66</sup>

Despite chronic shortages in the availability of special education personnel documented since 1988, the Congress did not adequately address the issue in the 1997 IDEA reauthorization. Throughout the 1990s, funding was primarily made available to stimulate innovation. This reinforces a constant cycle of new versions of practices—often unvalidated—in personnel preparation without support to the development and maintenance of effective personnel preparation programs. The result is low numbers of personnel who are well trained in scientifically based teaching practices.

“[H]igher education ought to be driven by empirical results related to changes in children's competencies rather than philosophically driven. I think much of higher education is driven by a set of premises about what children ought to be like rather than what works with kids.”—Daniel J. Reschly, Ph.D.

Federal funds supporting teacher-training programs must be competitively awarded to institutions of higher education to develop, maintain and sustain high quality personnel preparation programs rather than the current practice of funding different, short-term programs. The Commission finds that allocating federal funds to invest in teacher preparation programs demonstrating high levels of effectiveness must become a priority for the U.S. Department of Education. Supporting an ever-changing series of “innovative” programs at the expense of long-term support for quality teacher training programs has not resulted in sufficient numbers of new special education teachers entering the classroom.

### Data-Driven Education and Public Reporting

Higher education institutions have trained millions of teachers. Researchers and policy makers offered innumerable analyses of what leads to the development of quality teachers. Yet very few higher education institutions or states have determined exactly which teachers have later proved to be high quality teachers. Although they would be the primary beneficiaries of such information, most school districts lack a sufficiently large pool of data elements—teachers—to make collecting data relate to the performance of their students worth their while. State educational agencies and universities could collect the data but for a variety of reasons do not do so. As a result, local administrators continue to use qualitative tools and personal experience to guide their recruitment and induction efforts. State agencies and colleges in turn lack key knowledge that would help lead reforms in their policies and teacher training programs. It is important that research efforts focus on teacher characteristics that improve student achievement.

A solution lies with creating more data and putting that data to use. The Commission recommends that state and local education agencies enter into partnerships with universities and

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<sup>66</sup> Title II of the Higher Education Act should be amended to require teacher education programs to publicly report the competence of general and special education program graduates relative to educating students with disabilities. In those circumstances where a license or certification has been granted to a teacher or specialist who has not completed an approved program of study in a college or university subject to Title II, a competency assessment comparable to that required for college and university program graduates must be developed and reported publicly.

colleges to collect data on the career path of teachers and the aggregate achievement of children. The data would permit universities to refine their programs based on how well their teachers later perform. Colleges would abandon practices that do not work in favor of those that do.

The change would also drive state and local agencies towards quality programs. Universities that poorly prepare teachers would likely see their application pools shrink while teachers leaving strong training programs would find multiple offers for their services. To further drive college programs towards quality, the Commission recommends these data be made publicly available by institution. Public scrutiny of performance will help all stakeholders—deans, university boards, state licensure authorities and students with tuition dollars—make better decisions about those institutions.

### Teacher Recruitment and Retention

There is little research about effective strategies to address the current personnel shortage. As a result, the Commission calls on states and districts to devise new approaches to recruiting personnel who are highly qualified to educate students with disabilities. Promising strategies include:

- Experimenting with differential pay for educators in shortage specialties;
- Experimenting with performance-based or knowledge-and-skills-based pay with the possibility of higher pay for successful special educators;
- Developing high-quality alternative routes into classrooms that enable high-potential educators to enter the profession and receive on-the-job professional development; and
- Improving working conditions of special educators by reducing paperwork and mitigating the adversarial nature of special education (issues addressed elsewhere in this report).

### Professional Development

Teacher preparation must be seen as a career-long continuum of development.<sup>67</sup> Professional development does not end with a basic credential in teacher education. Instead, teacher-preparation must be seen as a long-term developmental process, beginning with undergraduate preparation, and continuing with professional development throughout each educator's career. However, the content of professional development must always be linked to empirically validated methodologies and content that is related to improving student achievement.

Experts appearing before the Commission stated that research on the ability of general education and special education teachers' to implement research-based practices is consistent with the findings of research on effective professional development.<sup>68</sup> However, these data must be supported with more empirical research to inform our understanding of what constitutes effective professional development.

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<sup>67</sup> National Research Council, 1998.

<sup>68</sup> Testimony provided in Denver, Colorado, on March 6, 2001, by Thomas M. Skrtic, Ph.D., Chair of the Special Education Department University of Kansas and Mary T. Brownell, Ph.D., of the University of Florida; and Rebecca L. Hamilton, Ph.D., University of Pittsburgh. See transcript pages 89-130.

“We know that on-going professional development is essential for educators to remain current in their teaching methods. As an urban school district administrator, I know the value and importance of this. Professional development does not end with a basic undergraduate teaching credential.”—Commissioner Paula C. Butterfield, Ph.D.

Existing continuing education efforts are often inadequate for a number of reasons, including lack of substantive and research-based content, the lack of systematic followup necessary for sustainability and the “one-shot” character of many workshop training programs.<sup>69</sup> Special and general educators require continuous opportunities to improve their ability to provide effective instruction to each student. Professional educator development should not be conceived as something that ends with graduation from a teacher-training program.

### Training Teachers to Provide Quality Reading Instruction

The ability to read is the most critical academic skill a child can learn. As a result, the skills educators need to teach young children reading is of such profound importance that the Commission believes this issue merits further discussion. Key to successful preparation of teachers in reading is aligning the content of coursework with current research on reading. As such, the Commission is concerned not only about the quantity of pre-service coursework in reading, but the quality as well.

The Commission is concerned about the current methods of preparing new teachers to more effectively teach all children to read. The Commission is further concerned about the ability of teachers to identify early those children who may be at-risk of reading difficulties and those factors associated with potential learning problems, particularly in the early elementary grades where learning to read directly affects a child’s future academic success.

The Commission finds that in the typical pre-service course of study, very little time is allocated to preparing teachers to teach reading. Virtually all states require that K-3 teacher credential candidates do some course work in the teaching of reading.<sup>70</sup> Most teachers of the primary grades take only one course in the teaching of reading, and the average is only about 1.3 courses per teacher.<sup>71</sup> The quality of this coursework is often questionable.

Teachers must have a deep understanding of the what, the how and the why of language and literacy—National Research Council, 1998.

Many researchers who appeared before the Commission, including Sharon Vaughn, Ph.D., David J. Francis, Ph.D. and Daniel J. Reschly, Ph.D.,<sup>72</sup> noted that teacher preparation for the teaching

<sup>69</sup> For example, we find that few preservice teacher education programs even offer elective courses focusing on transition services. We are concerned that quality professional development training in transition issues is severely lacking.

<sup>70</sup> National Research Council, 1998.

<sup>71</sup> Goodlad, J., “Producing Teachers Who Understand, Believe, and Care,” *Education Week* 16(48): 36-37 (1997).

<sup>72</sup> Testimony provided before the Commission on February 25, 2002, in Houston, Texas.

of reading has not been adequate to bring about the research-based changes in classroom practices that result in academic success. Therefore, we recommend SEAs, associations of teacher education, colleges and universities that provide teacher education and accrediting agencies of higher education programs must implement more rigorous requirements in reading assessment and research-based intervention linked to improvement of student achievement particularly for elementary endorsement.

Teachers must have continuing access to professional development to serve children likely to or already experiencing reading difficulties. Teachers of children who are at risk of reading difficulties and children with learning disabilities need access to the most recent research to more effectively implement instructional methodologies that are scientifically based.

#### The National Shortage of Special Education and Related Services Professors

We are concerned about the growing need for special education faculty to train our nation's future educators. The current annual supply of special education doctorates cannot fill the annual faculty position vacancies, and every year approximately one-third of all position vacancies go unfilled.<sup>73</sup> As more faculty approach retirement there are fewer doctoral level candidates to fill present and future openings. Providing quality faculty in our nation's colleges and universities is critical to ensuring educators receive the best preparation to enter classrooms ready to serve children with disabilities.

We must focus on efforts to recruit and train through the doctoral level a new national cadre of fully qualified special education teacher educators and researchers. This new cadre should be recruited from the ranks of practicing special educators with experience in all relevant special education service delivery models, including inclusive or collaborative general/special education classrooms. They must be fluent in research-based best practices of instruction and assistive technology, and they must be diverse with regard to gender, race and ethnicity. Special education doctoral personnel preparation programs must be comprehensive in terms of program offerings and have a minimum of five full-time special education faculty with doctoral degrees.

#### The Importance of Minority Teacher Recruitment

Students in today's classrooms are more diverse in ability, culture, language and learning needs. All too often, we ask students to move from place to place to accommodate teacher qualifications, rather than ask that teachers possess the ability to adapt to the individualized needs of diverse students. It has also meant that students who do not meet eligibility requirements have no access to individualized instruction practiced by many special educators. Instead, they struggle in a one-size-fits-all educational setting that may not fit their learning needs. It is time for educational systems to recruit, train and support teachers who can apply research-based and culturally competent practices to educating diverse students in their classrooms.

The Commission finds that an emphasis in the recommendation to recruit and retain special educators must focus on reaching out to our nation's most talented individuals who represent the

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<sup>73</sup> Smith, et al., 2001.

diversity of children in the classroom. The student population throughout the nation increasingly is more diverse, yet the proportion of minority teachers continues to decrease. In 1993-1994 children who are black made up 16 percent of the public school population, but only nine percent of the teaching force consisted of educators who are black.<sup>74</sup> The Commission is concerned that not enough people from minority backgrounds and men, in general, are entering the profession of educating children. Children benefit from having teachers that include individuals from their own ethnic and cultural backgrounds. The representation of role models for children to emulate is an important function educators provide. We are disturbed that although the diversity of children will continue, the prospects that teachers will be largely white, middle class, female and monolingual will continue.<sup>75</sup>

### Conclusion

The Commission echoes assistant secretary Pasternack in his comments before the U.S. Senate Subcommittee that, “the successful implementation of the IDEA is perhaps most critically dependent on the quality of the people who implement the principles contained in the law—the teachers, para-educators, related service providers and administrators, in cooperation with the parents and the students. Unfortunately, many general and special education teachers, as well as the administrators and other school personnel who work with them, are often ill prepared to meet the needs of students with disabilities. We know that much more needs to be done to better prepare and support all the members of the learning community in their efforts to educate students with disabilities.”<sup>76</sup>

The Commission’s recommendations will improve the quality and numbers of individuals entering special education professions. These improvements are critical elements that will bring about change in how well we serve children with disabilities in our nation’s schools. In sum, we hold that a national priority to recruit and retain the finest special educators and related services personnel must be an important component of IDEA.

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<sup>74</sup> National Center for Education Statistics, 1997.

<sup>75</sup> Melnick and Pullin, 1999.

<sup>76</sup> Testimony of Robert Pasternack, Ph.D., Assistant Secretary, Office of Special Education and Rehabilitative Services, March 21, 2002, before the U.S. Senate Committee on Health, Education, Labor and Pensions.

## Special Education Research and Dissemination of Information

**RECOMMENDATION—CHANGE THE CURRENT GRANT REVIEW PROCESS TO CREATE SCIENTIFIC RIGOR:** Improve the Office of Special Education Programs (OSEP) to make participation in review activities an honor, obligation and a sign of accomplishment among researchers and practitioners. Create a culture of scientific rigor in OSEP emphasizing the quality of special education research activities.

**RECOMMENDATION—IMPROVE THE COORDINATION OF SPECIAL EDUCATION RESEARCH:** Integrate and improve the coordination of all research activities within the U.S. Department of Education’s Office of Special Education and Rehabilitative Services. The three offices within OSERS—the Rehabilitation Services Administration, the National Institute on Disability and Rehabilitation Research and the Office of Special Education Programs—must collaborate more effectively with each other and with other federal efforts to improve research related to individuals with disabilities.

**RECOMMENDATION—SUPPORT LONG-TERM RESEARCH PRIORITIES:** Focus research investments on a narrower range of priorities to promote the development of more powerful and reliable discoveries that will benefit people with disabilities.

**RECOMMENDATION—IMPROVE THE IMPACT OF RESEARCH FINDINGS:** Support demonstration and dissemination programs in OSERS that focus on the adoption of scientifically based practices in the preparation of and continuing education for teachers. Focus on proven, effective practices that can be implemented, scaled and sustained nationwide.

In the federal government, the Office of Special Education Programs (OSEP) within the U.S. Department of Education is responsible for funding coordinated research, personnel preparation, technical assistance, support and dissemination of information to benefit children with disabilities of all ages. Much of this coordination and support for research and other activities is conducted through grants awarded competitively through a peer review system. OSEP manages that system in its Research to Practice Division.

OSEP’s research charge is broad because it spans the range of issues affecting the education and development of infants, toddlers, children and youth with disabilities. In addition, consumers of OSEP’s research efforts include parents and their children with disabilities, teachers, administrators, technical assistance providers and developers and other researchers. These activities play a vital role improving the achievement of children with disabilities, but the impact has been weakened because of inadequate dissemination efforts. Congress and the Department of Education reaffirm their support of this important research and dissemination program. The Commission recommends several fundamental changes be made to OSEP’s research and development efforts.

### Improve the Current Grant Review Process

The Commission finds that OSEP's current process for reviewing grant proposals and monitoring practices must be improved. The review process at OSEP appears oriented to completion of an administrative task designed to allocate resources as opposed to an opportunity to rigorously evaluate and improve the quality of research. The criteria applied in the review process must match those of the field for rigorous, scientifically based special education research.

Many of the nation's leading special education researchers provided testimony before the Commission expressing concern over OSEP's methods of conducting peer review of research grant proposals.<sup>77</sup> In addition, several members of the Commission have research backgrounds with years of experience in federal grant application with multiple research agencies and have supported the entire Commission as it developed its findings and recommendations.

Peer review at OSEP is based on ad hoc panels assembled from reviewer lists. The development of a community organized around a set review process, expectations around a set review process, expectations around deadlines for review or the need to participate in review, has not occurred. Thus, OSEP experiences difficulties recruiting reviewers. Witnesses indicated that reviewers are often not provided the applications in advance, but are expected to review on the spot at the review session. Not only does this prevent careful consideration of the applications, but also written feedback is truncated, inconsistent and often not helpful to the applicant. As a major function of review is to provide feedback to the field and upgrade the quality of research through the review process, OSEP is missing opportunities to enhance the technical quality of its applications.<sup>78</sup> This approach also reduces interest in participating in the review process, contributing to the difficulties OSEP experiences in attracting reviewers.

Other problems with the process reflect review procedures. OSEP staff persons that are research managers are also responsible for peer review. Not only does this create additional work, but it also creates potential difficulties in separating roles. Review works best when program and review are separated. The review process requires project staff that has appropriate professional backgrounds and experiences in research and its administration, which is not sufficient at OSEP and not apparent in the contracting organizations. The Commission learned that continuation grants are rarely allowed at OSEP, so evaluations of progress rarely figure into the evaluation process. Although OSEP has improved procedures for review, the Commission found little evidence that the results of these reviews figured into future funding decisions for the applicant. Review panels are expected by statute to include researchers, consumers, practitioners and consumers even though non-researchers may not be able to address technical aspects of the proposal. Many qualified researchers do not participate in the peer review process or avoid OSEP applications because of the perception that the review process is arbitrary and that OSEP does not select the highest quality grants.

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<sup>77</sup> Among those experts providing testimony before the Commission were Lynn Fuchs, Ph.D., Susan Brody Hasazi, Ed.D., Paul Wehman, Ph.D., Doug Fuchs, Ph.D., Don Bailey, Ph.D., Mark Wolery, Ph.D., Wayne Sailor, Ph.D., Don Deshler, Ph.D. and Donald Lee MacMillian, Ed.D. Appendix \_\_\_\_ lists all experts appearing before the Commission.

<sup>78</sup> See NRP Report.



The OSEP review process can be substantially strengthened.<sup>79</sup> Setting priorities for research and determining the questions to be addressed in special competitions should be conducted in collaboration with the consumers of special education research—culturally diverse families, individuals with disabilities, service providers, researchers and policy makers. Researchers with methodological and content area expertise that matches the purpose of the competition should be specifically recruited to review research proposals. We propose four broad improvements to create a culture of rigorous scientific practice:

- A. The Commission recommends that OSEP develop a peer review system with a two-tiered level of review, which the Commission finds is essential to enhanced research quality at OSEP. A statutory change will be needed to effect this change. The first level should be for technical quality, significance and innovation and completed by members of the research community. The second level should address relevance to OSEP priorities, but should occur at the level of the assistant secretary for OSERS to ensure the Part D program is coordinated with Part B and C (as designed) and that OSEP research priorities are coordinated with those of the Rehabilitation Services Administration (RSA) and the National Institute on Disability and Rehabilitation Research (NIDRR).
- B. A national advisory committee analogous to the National Research Priorities Board at the U.S. Department of Education's Office of Educational Research and Improvement, the National Science Board at the National Science Foundation (NSF) or the National Advisory Councils at different National Institutes of Health (NIH) institutes should be formed. This committee would include practitioners, researchers, parents and people with disabilities. It would be responsible for helping to establish priorities and agendas and also to review research recommended for funding to ensure its relevance to people with disabilities. Finally, the Commission notes that these concerns about the review process extend to each of the Part D programs under National Activities to Improve Outcomes for Children with Disabilities.
- C. To facilitate the first level of review, standing panels with fixed terms for each of the OSEP Part D programs should be established. These committees should operate independently of the OSEP research programs through a separate "institute for review." This model is like that used by NIH internal review groups that are responsible for research generated outside the investigator initiated mechanisms, but specific to institute priorities.
- D. Each panel should be chaired by a senior researcher and administrated by a doctoral level individual with a background in research who is part of the review institute. The administrator will be responsible for processing grants, distributing them to reviewers in a timely manner and editing reviews into a consistent format devoid of ad hominen or impertinent comments. Reviewers will be expected to prepare reviews in advance of the meeting that are oriented towards identifying the strongest applications and to provide reviews that are systematic, thorough and document the strengths and weaknesses of the application in attempt to upgrade the quality of the research. The goal would be to make participation in review an honor, obligation and sign of accomplishment as part of the

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<sup>79</sup> These improvements were most clearly outlined by Ann P. Kaiser, Ph.D., who appeared before the Commission on April 18, 2002, in Nashville, TN. See Transcript pages 267-381.

development of a culture of science around Part D programs, which presently does not exist. The costs of these changes are not significant. Current statutes allow OSEP to spend up to five percent in peer review, whereas current expenditures are now about two percent.<sup>80</sup>

The peer review process itself must be organized in a manner that actively encourages progressive improvement of research proposals through revision and resubmission based on feedback from the previous review. Strong peer review results in better science and better, more accurate scientific information is needed to improve practice. The review process must promote the long-term programs of research that support evidence-based practices. A rational system of review that includes progress reports from previously funded projects and places newly proposed research in the context of the researcher's record of empirical work is needed. Specific recommendations are as follows:

1. Provide professional, accurate, timely feedback to applicants. The content of the feedback should be substantive and reflect technical adequacy of the proposal in precise terms and delineate the importance of proposed research within the parameters of the competition.
2. Develop a system of grant reviewing that allows for systematic revision and resubmission of proposals, particularly in the Field Initiated Research competition. Reviewers should be provided applications in advance and be expected to prepare reviews that are structured to identifying the strongest applications.
3. Develop standing dates for annual competitions, and predictable submission deadlines for special competitions; provide sufficient public notice for applicants to prepare relevant and rigorous applications.
4. Time the reviews and notification of applicants about review outcomes to coincide with the functional start dates for research and training activities. This will allow a more effective and manageable flow of subsequent research implementation and personnel preparation grant awards.

In sum, evidence-based practice depends on sustained funding for important, credible and methodologically rigorous research in special education. A stronger system of peer review can strengthen the methods and standards for research in special education programs and services. Ultimately, a stronger peer review process will increase the reliability and the validity of research outcomes. Credible peer review processes will have a positive effect on special education research as viewed by researchers in other disciplines and by other federal and private funding agencies.<sup>81</sup>

### Improve Federal Collaboration

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<sup>80</sup> OSEP staff that is now responsible for carrying out this review process internally could be redirected to other activities.

<sup>81</sup> See National Research Council. Improving student learning: A strategic plan for education research and its utilization, 1999.

The Office of Special Education and Rehabilitative Services comprises the Rehabilitation Services Administration, the National Institute on Disability and Rehabilitation Research and the Office of Special Education Programs. Each of these agencies administers research and dissemination activities ranging from rehabilitation engineering technology for people with severe physical disabilities to infant and toddler early intervention programs. Yet, little to no coordination or collaboration exists among these three offices. Many researchers appearing before the Commission found it difficult to identify recent collaborative activities of these three offices despite the fact all three share the same floor of the same building and operate within the same federal agency under a single assistant secretary. The Commission encourages each OSERS office to work more closely together and foster a community of scholars working in tandem across the research activities occurring within OSERS.

The Commission was able to identify several examples of positive and productive interactions of OSEP research programs with other federal agencies that address research on people with disabilities. More than any other agency, OSEP has advocated including people with disabilities in the research and other activities, such as the Bureau of Census and national surveys. It is critical that federal agencies work together to ensure that common priorities are addressed and that duplication of effort is avoided. In this regard, some glaring examples of lack of interaction emerged. Despite the importance of research on scaling educational research, OSEP was not invited to participate in the Interagency Educational Research Initiative (IERI). This may reflect the perception of OSEP as an isolated research entity with limited funding. But OSEP should be aware of these initiatives and pursue participation. Even if OSEP has limited funds to contribute, they should be at the IERI table to learn how scaling research occurs in other parts of the government and to provide input on how their research fits into scaling efforts.

In other instances, OSEP contributes to this perception.<sup>82</sup> OSEP is considered to be the primary agency responsible for research on improving *educational* results for children with disabilities. Few agencies, or other offices within the Department of Education, construct their research efforts specifically to include children with disabilities or in a way that results for children with disabilities can be disaggregated. Although the term “educational” may be an important modifier, this should not be to the exclusion of other educational relevant programs that address children with disabilities at other federal research agencies.

Particularly conspicuous is the absence of a relationship with the Center for Mothers and Children at the National Institute of Child Health and Human Development (NICHD). This Center includes the Mental Retardation/Developmental Disabilities Research Branch, which funds 15 national MR/DD research centers as well as significant research programs in autism and other disabilities. The Center includes the research on reading and reading disabilities by the Child Development and Behavior Branch of NICHD, which is also highly relevant to OSEP. There is a large program involving children with behavior disorders, but no systematic relationships with National Institutes on Mental Health, where both organizations would benefit from mutual research efforts on the prevention of behavior disorders in children.

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<sup>82</sup> Letter from Commission Executive Director C. Todd Jones to OSEP Director Stephanie Smith Lee, dated February 8, 2002, requesting information from OSEP.

OSEP should systematically seek relationships and opportunities for interactions with and joint funding of its priorities with other federal research agencies. Similar expectations should be established for these agencies to interact with the office. People with disabilities should be included in all federal research programs whenever feasible and OSEP should continue to work towards this goal.

### Invest in Long-Term Research Priorities

Inevitably, OSEP is faced with converging constituencies and a finite level of resources. A focus on priorities resulting in research activities with a potential for large-scale implementation and sustainability will more effectively combine resources for the maximum result. Furthermore, we recognize the importance of directing funds to support our recommendations. Thus, we find it important to continue to support investments in IDEA Part D research activities, and to appropriately balance federal spending on research with spending on IDEA State Grants. IDEA Parts B and C must be guided by research, and continued investments are required to support foundational research to validate systems and programs that will facilitate bringing those findings to national scale and sustain their use over time.

### Create a Community of Scholars within OSEP

The Commission recommends OSERS, and more specifically OSEP, increase the number of research scholars within its organization so a culture of scientific rigor can be supported and sustained. OSEP has too few seasoned researchers with the skills important to relate the effects of proposals to long-term implications. We support the idea of creating fellowship opportunities for those with newly granted doctorates and for senior researchers to serve within OSEP to increase the interactions between those truly conducting research and those administering research at the federal level.<sup>83</sup>

“Unless the broad array of issues related to scalability and sustainability are deliberately and aggressively addressed, the lofty vision and goals inherent in the *No Child Left Behind* Act will not be realized.”—Donald D. Deshler, PhD.

A growth in research skill and competence must occur at OSEP. The intellectual capital of the agency is a cornerstone of future success. OSERS must be provided the flexibility to change the present focus to one defined by one of academic stimulation. This comports with the goal, supported by the Commission, of building infrastructures in federal education agencies that promote collaborations among researchers, policy makers and practitioners.<sup>84</sup>

### Improve Development and Dissemination of Research Findings

Bridging the gap between research and practice will be a continuing challenge. Practices must continue to improve so children, their parents and their teachers have access to effective practices and instructional methods. A disturbing finding by this Commission is that we do not

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<sup>83</sup> See National Research Council. Improving student learning: A strategic plan for education research and its utilization, 1999.

<sup>84</sup> Ibid.

yet know the best methods of research dissemination. We have no research to show which methods prove more effective in reaching the consumers. As a result, we can only now make three recommendations.

First, the Department of Education and other appropriate agencies should undertake systematic research efforts on effective dissemination practices and systematic efforts to bring to scale practices that are identified as effective. Both of these activities should be focused on speeding dissemination. Absent such reliable information, we support building a bridge to finally resolve much of the current gap between valuable research findings and those who use knowledge.

Second, OSEP should be given funds to develop two missing components of its dissemination activities. One is a synthesis center; the other involves scaling centers focused on implementation of major innovations. These efforts should parallel and enhance the efforts of the Interagency Educational Research Initiative.

Third, federal law should be amended to address the federal government's primary means of development of research and technical assistance—its regional education laboratories (RELs) funded under the U.S. Department of Education's Office of Educational Research and Improvement, and its special education regional resource centers (RRCs) administered by OSEP. These institutions should both be obligated to improve their responsiveness to state identified needs. The Commission recommends that RELs be obligated to include special education practices within the scope of their work. RRCs should be obligated to work closely with RELs or possibly be merged with them. RRCs and RELs should be held to more rigorous performance standards in technical assistance and research activities. The Department should also focus on ensuring that the quality of these institutions is more uniform, so that the least of them rise to the quality of the best of them.

“As a state superintendent, I know how important it is to receive accurate information based on quality research findings to better serve children with disabilities. Federal research activities must provide the ability to scale on local and state levels.”—Commissioner Nancy Grasmick, Ph.D.

The National Information Center for Children and Youth with Disabilities (NICHCY) should be restructured to address multiple topics with aggressive, strategic dissemination. It should link to empirically validated practices developed not only in OSEP, but also in other federal research agencies. Materials should be largely devoted to the dissemination of scientifically based practices based on empirical syntheses of research. There should be less emphasis on distributing information about the law and how to comply with it, and more emphasis on “what works” and outcomes.

The Commission found little value in continued support for the Educational Resources Information Center (ERIC) Clearinghouse, which is jointly sponsored by OSEP and OERI given the wide availability of other library-based databases and search engines. The material is largely redundant.

State Improvement Grants, Personnel Preparation Grants and Parent Training and Information Centers should be linked with the research efforts and conceptualized as opportunities to either prepare teachers and researchers for careers involving people with disabilities based on scientifically-based practices or opportunities to disseminate scientifically-based information on research-based practices to parents and schools. Presently these activities are poorly linked to research. IDEA should be amended to allow the Secretary to devote a percentage of each program's respective budgets to program evaluation and research on how to best establish these types of programs.

The Model Demonstration Projects should be expected to generate peer-reviewed publications and other examples demonstrating that they are research oriented. At times, it was unclear whether the purpose of these projects was research or dissemination.

### The Importance of Institutions of Higher Education in the Research Process

We cannot overlook the crucial importance of our nation's institutions of higher education as partners in the production of research and as instruments of effective information dissemination not only to training future educators, researchers and related services professionals but also to state and local education agencies. Special education research and related research comes primarily from our nation's colleges and universities. Overall, investing in institutions of higher education must be made to expand and strengthen the special education research capacity by:

- 1) ensuring the production of more doctorates in special education;
- 2) providing incentives to doctorates (perhaps through post-doctoral fellowships) to do research in higher education; and
- 3) developing more research institutes that address core questions at great depth over a long period of time, e.g., the relationship between teacher quality and student achievement.

We are also concerned with the increasing need for individuals trained at the doctoral level in special education and related services. Today, there are not enough individuals who hold doctorates in special education to adequately train special educators or to conduct the research needed to advance services for children with disabilities. This shortage in special education faculty requires our attention and leads us to suggest that specific efforts must be made to encourage the most talented special educators to pursue doctorates in special education. Incentives for prospective special educators to enter doctoral programs should include graduate fellowships or other stipends similar to those offered by the Rehabilitation Services Administration to train vocational rehabilitation counselors. The need for highly trained special educators we discuss in our Personnel Preparation section of this report cannot be met if our nation's colleges and universities have insufficient highly qualified doctoral level faculty to train students.

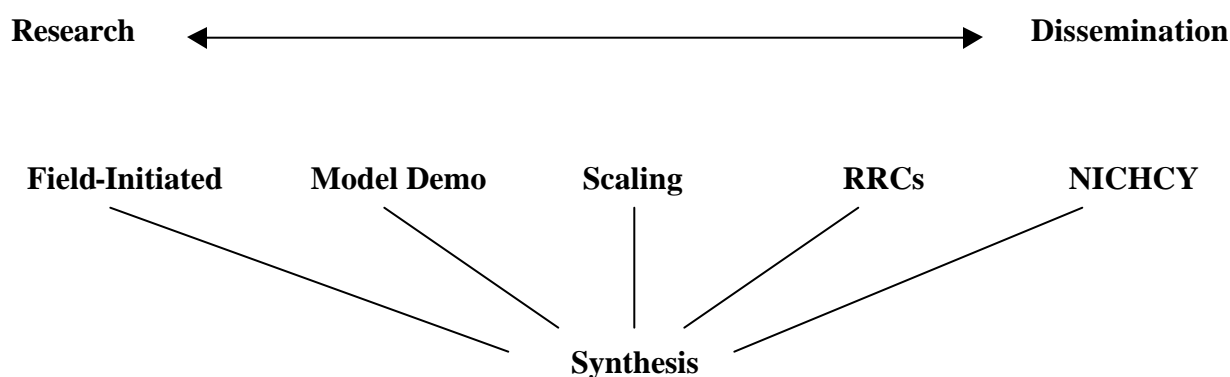
The recommendations set forth here reflect our belief that improving research is integral to improving our teacher training programs. Colleges and universities, Centers for Excellence in developmental disabilities and other university-affiliated programs are essential partners in supporting continued improvements in special education.

### The Importance of Research in the Implementation of IDEA

It is recommended that OSERS collect and analyze data, which can inform the Department of Education and the public about the relationship between factors relevant to the implementation of IDEA and student outcomes and results. These factors include for example, student achievement and learning, and post-school outcomes.

### Conclusions

The figure at (left/right/above/below) provides a schematic of a proposed research to dissemination model that may be helpful in thinking about the relationship of research to practice. This figure shows a continuum from practice-oriented research in the field-initiated program that moves into model dissemination projects and then to large scaling centers that bridge the gap between research and dissemination. On the dissemination side, there are RRCs and NICHCY. Intermediate is the synthesis center. Presently OSEP funds directed activities at a 2:1 ratio over field-initiated research. The field-initiated component should be increased so that it is comparable with the model demonstration projects, which are uneven in quality. Field-initiated research should be oriented to new ideas, which is vital to innovation, while model demonstration projects should be research oriented, but focused on initial applications in a manageable number of schools. OSEP should fund fewer of these activities and focus them on small-scale implementation of promising practices or synthesis of research around key areas. Scaling centers would need large budgets and would be oriented towards implementation of the most significant findings; rarely would more than one to three be in operation at any point in time. The synthesis center would monitor all research findings at OSEP and other areas, feeding these results to the dissemination components. To facilitate development of this capacity, a significant increase in Part D funding is strongly encouraged.



## **Special Education Research Agenda**

The Commission recommends that the Federal government undertake and support research in the following areas, as requested by the President in section 3(b)(3) of Executive Order 13227:

1. Implementation of models for response to intervention
2. Implementation of continuous progress monitoring; additional research extending these methods to middle and high school, significantly impaired students, and in areas beyond reading (e.g., math and behavior); development of national norms.
3. Development of assessment methods that are based on universal assessment; alternate assessments; evaluation of methods for assessing annual yearly progress for students with disabilities.
4. Parent-based early childhood interventions linked with NICHD research on the development of and intervention with high-risk infants and preschoolers.
5. Scalability and sustainability research linked with IERI.
6. Learning disabilities in older children and in areas other than reading linked to NICHD research.
7. Development and adaptation of instructional methods for children with low incidence disabilities linked to NICHD research.
8. Costs of special education, including data collection in the following areas:
  - a. Data collection and analysis of true excess special education costs;
  - b. Use of a census based formula for distribution of special education funds;
  - b. Determination of the costs and necessary resources for student achievement of identifiable outcomes and results;
  - c. Influence of eligibility parameters and uses of other federal funds for high need students;
  - d. Impact of state special education high need reimbursement models and risk management pools on service delivery models and settings in special education;
  - e. Influence of pooling Part C and Section 619 funds on early intervention success; and
  - f. Impact of fiscal reforms in special education on the general education program.
9. Adaptation of instructional methods that promote inclusive educational practices.
10. Instructional methods for students with autism linked to NICHD/CDC.
11. Evaluations of parent training and information programs.
12. Professional development research including:



- a. Identification of the critical factors in personnel preparation that improve student learning and achievement in schools, and the instructional variables that improve student learning;
  - b. Determination of whether teacher certification or years of expertise contribute to student achievement
  - c. Identification of what teacher characteristics affect student achievement, and what factors have a strong effect in producing student achievement;
  - d. Identification of effective strategies to address the current personnel shortage; and
  - e. Determination of the best means of professional development for general education and special education teachers that leads to effective implementation of research-based practices.
13. Identification of the factors that help students with disabilities make the transition into college, and model best-practice programs utilizing that scientifically based research.
14. Collection and analysis of data on students served under “504 plans” including the effectiveness of 504 Plans and the number of 504 Plan children with disabilities gaining employment or moving onto higher education.
15. Collection and analysis of data on due process and dispute resolution.

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## **GLOSSARY**

**Average Per Pupil Expenditure (APPE).** The expenditure per pupil for the cost of general education defined in 34 CFR 300.702.

**Adequate Yearly Progress.** As defined by each State under section 1111(b)(2) of NCLB, “adequate yearly progress” is the measure of yearly progress of the State and of all public schools and school districts in the State toward enabling all public school students to meet the State’s academic content and achievement standards.

**Charter School.** A nonsecterian, tuition-free, public elementary or secondary school that is exempt from significant state or local rules that inhibit the flexible operation and management of public schools. Charters are created by a developer as a public school or adapted by a developer from an existing public school, and are operated under public supervision and direction. They operate under state charters law in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency. All charters have a written performance contract with a public chartering agency that includes a description of how student performance will be measured pursuant to State assessments that are required of other schools. Charters also comply with federal civil rights laws and IDEA, and applicable Federal, State, and local health, safety, and audit requirements. (NCLB sec. 5210(1)).

**Corrective Actions.** Generally defined as any step or activity that a State or entity must complete in order to correct identified non-compliance with the law; under NCLB, it is a term of art defined in section 1116(b)(7).

**Excess Costs.** The costs that exceed the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary or secondary school. (34 CFR 300.184(b)).

**Individuals with Disabilities Education Act of 1990 (IDEA).** Public Law 101-476. Amended the Education for All Handicapped Children Act (EAHCA), Public Law 94-142. The Act ensures that all children with disabilities have available to them a free appropriate public education that includes special education and related services designed to meet their unique needs.

**Individualized Education Program (IEP).** A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with the provisions of IDEA.

**Interagency Education Research Initiative (IERI).** A federal partnership that includes the U.S. Department of Education's Office of Educational Research and Improvement, the National Institute of Child Health and Human Development, and the National Science Foundation. IERI works to implement rigorous educational research in mathematics, reading, and the sciences by supporting a program of research addressing the scaling of educational practices validated in more traditional research studies. <http://www.ed.gov/offices/OERI/IERI/>

**Local Educational Agency (LEA).** A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. (34 CFR 300.18).

**Monitoring and State Improvement Planning (MSIP).** One of two divisions within OSEP. MSIP carries out activities related to the IDEA formula grant programs. MSIP is responsible for review of state eligibility documents, and for monitoring OSEP's formula grant programs to ensure consistency with federal requirements and to ensure that States and other public agencies continue to implement programs designed to improve results for infants, toddlers, children, and youth with disabilities. Additionally, MSIP leads OSEP's technical assistance to the states through the Regional Resource Centers, and the State Improvement Grant program and the General Supervision Enhancement Grant program.

**National Information Center for Children and Youth with Disabilities (NICHCY).** A national information, dissemination and referral center that provides information on disabilities and disability-related issues for families, educators, and other professionals. NICHCY's focus is children and youth (birth to age 22). <http://nichcy.org/>

**National Institute of Child Health and Human Development (NICHD).** One of the 27 components of NIH. NICHD administers a multidisciplinary program of research, research training, and public information on reproductive biology and population issues; on prenatal development as well as maternal, child and family health; and on medical rehabilitation. <http://www.nichd.nih.gov/>

**National Institute on Disability and Rehabilitation Research (NIDRR).** One of three components of OSERS at the U.S. Department of Education. NIDRR generates, disseminates, and promotes new knowledge to improve the options available to individuals with disabilities. It conducts programs of research to maximize the full inclusion, social integration, employment and independent living of individuals with disabilities. NIDRR's focus includes research in areas such as employment; health and function; technology for access and function; and independent living and community integration. <http://www.ed.gov/offices/OSERS/NIDRR/>

**National Institutes of Health (NIH).** An agency of the U.S. Department of Health and Human Services' Public Health Service. NIH is the steward of medical and behavioral research for the nation. Its mission is science in pursuit of fundamental knowledge about the nature and behavior of living systems and the application of that knowledge to extend healthy life and reduce the burdens of illness and disability. <http://www.nih.gov/>

**No Child Left Behind Act (NCLB).** Public Law 107-110. President Bush signed the No Child Left Behind Act into law on January 8, 2002. NCLB is the most sweeping reform of the Elementary and Secondary Education Act (ESEA) since ESEA was enacted in 1965. It redefines the federal role in K-12 education and will help close the achievement gap between disadvantaged and minority students and their peers. It is based on four basic principles: stronger

accountability for results, increased flexibility and local control, expanded options for parents, and an emphasis on teaching methods that have been proven to work.

**Office of Educational Research and Improvement (OERI).** A program office of the U.S. Department of Education that provides national leadership for educational research and statistics. OERI conducts research and demonstration projects funded through grants to help improve education; collects statistics on the status and progress of schools and education throughout the nation; and distributes information and providing technical assistance to those working to improve education. <http://www.ed.gov/offices/OERI/>

**Office of Special Education and Rehabilitative Services (OSERS).** The program office within the U.S. Department of Education focused on improving results and outcomes for people with disabilities of all ages. OSERS supports parents, individuals, school districts, and states in three main areas in three offices: special education (OSEP), vocational rehabilitation (RSA), and research (NIDRR). OSERS also provides funds to programs that offer information and technical assistance to parents of children with disabilities, as well as members of the learning community who serve these individuals. <http://www.ed.gov/offices/OSERS/>

**Office of Special Education Programs (OSEP).** One of three components within OSERS at the U.S. Department of Education. OSEP is dedicated to improving results for infants, toddlers, children and youth with disabilities ages birth through 21 by providing leadership and financial support to assist states and through them, local school districts. OSEP administers IDEA. <http://www.ed.gov/offices/OSERS/OSEP/>

**Orthopedic Impairment (OI).** A severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures) (34 CFR 300.7(c)(8)).

**Other Health Impairment (OHI).** Having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that: 1) is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and 2) adversely affects a child's educational performance (34 CFR 300.7(c)(9)).

**Part B.** Part of the Individuals with Disabilities Education Act providing formula grant assistance to State Education Agencies for the education of children with disabilities ages three through 21.

**Part C.** Part of the Individuals with Disabilities Education Act providing funds to State Lead Agencies to assist in the provision of early intervention services to infants and toddlers with disabilities, ages birth through two.

**Part D.** Part of the Individuals with Disabilities Education Act assists SEAs and others in reforming and improving their systems for providing educational, early intervention, and transitional services, including systems for professional development, technical assistance, and dissemination of knowledge about best practices, to improve results for children with disabilities.

**Rehabilitation Services Administration (RSA).** The component under OSERS that oversees formula and discretionary grant programs that help individuals with physical or mental disabilities to obtain employment and live more independently through the provision of such supports as counseling, medical and psychological services, job training, and other individualized services. RSA's primary formula grant program provides funds to state vocational rehabilitation (VR) agencies to provide employment-related services for individuals with disabilities, giving priority to individuals who are significantly disabled.  
<http://www.ed.gov/offices/OSERS/RSA/>

**State Educational Agency (SEA).** The State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law (34 CFR 77.1).

**Specific Learning Disability (SLD).** A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage (34 CFR 300.7(c)(10)).

**Section 619.** One of the formula grants programs under Part B of IDEA administered by OSEP, Section 619 serves children ages three through five.

**Title I.** Title I refers to the first title of the Elementary and Secondary Education Act, and includes programs aimed at disadvantaged students. Title I Part A provides assistance to improve the teaching and learning of children in high-poverty schools to enable those children to meet challenging State academic content standards and academic achievement standards. (20 USC 6311 et seq.).

**Vocational Rehabilitation (VR).** A state-supported program of services funded under Title I of the Rehabilitation Act of 1973 that assists individuals with disabilities who are pursuing meaningful careers. VR assists those individuals to secure gainful employment commensurate with their abilities and capabilities through local job searches and awareness of self-employment and telecommuting opportunities.

## **BIOGRAPHIES**

### **Commissioners**

**Governor Terry Branstad** served four consecutive four-year terms as the chief executive of the state of Iowa. He completed his term of office in January of 1999. In 1989 he served as chairman of the National Governors Association and led the historic Education Summit in Charlottesville, VA. Branstad was also chairman of the Republican Governors Association (1997), and the Education Commission of the States (1998). Governor Branstad has also had careers as a farmer and as an attorney.

**Adela Acosta** is principal of the Cesar Chavez Elementary School in Prince George's County, MD. From 1978 to 1989, Acosta was a senior program specialist at the U.S. Department of Justice where she dealt with multicultural and desegregation issues in schools. For the past decade, Acosta has worked as a teacher, assistant principal, and principal.

**Steve Bartlett** is president of the Financial Services Roundtable. He served as mayor of Dallas from 1991 to 1995 and, from 1983 to 1991, as a representative to the U.S. Congress. As ranking Republican member of the Subcommittee on Select Education, he provided leadership on disability matters and many other education issues.

**William Berdine, Ed.D** is a professor of special education and chair of the Department of Special Education and Rehabilitation Counseling in the University of Kentucky College of Education. He also serves as the president of the Higher Education Consortium for Special Education.

**Paula Butterfield, Ph.D.** is the chief academic officer and deputy superintendent of Pittsburgh (PA) Public Schools. Prior to serving in Pittsburgh, Butterfield was a superintendent for 10 years in Mercer Island, WA, and Bozeman, MT. Butterfield began her career in education as a social studies teacher, a reading specialist and special education teacher. She was named Montana Superintendent of the Year in 1998.

**Jay Chambers, Ph.D.** is a senior research fellow and director in the education program at the American Institute for Research, where he oversees projects on the economics of education and school finance. He also serves as president-elect of the American Education Finance Association and director of the National Special Education Expenditure Project.

**Alan Coulter, Ph.D.** is an associate professor in the Department of Interdisciplinary Human Studies and the School of Allied Health Professions at the Louisiana State University Health Sciences Center. A psychologist by training, he is also the program director for interdisciplinary training and school-age programs at the Human Development Center. He was president of the National Association of School Psychologists in 1983-84 and received its award for child advocacy.

**Floyd Flake, D.Min.** is the pastor of Allen A.M.E. Church in Jamaica, NY, and president of Edison Charter Schools. Flake serves as a senior fellow at the Manhattan Institute for Social and

Economic Policy and as a columnist for the *New York Post*. He is a member of the board of directors of the Fannie Mae Foundation. Between 1987 and 1997 he served as a Democrat Representative to the U.S. Congress.

**Thomas Fleming** is special assistant to the provost at Eastern Michigan University. A preacher and educator, Fleming was selected as the Michigan Teacher of the Year in 1991 and was the National Teacher of the Year in 1992.

**Jack Fletcher, Ph.D.** is a professor in the Department of Pediatrics and associate director of the Center for Academic and Reading Skills at the University of Texas Houston Health Science Center. A child neuropsychologist by training, Fletcher has researched many aspects of development of reading, language and other cognitive skills in children with disabilities over the past 20 years.

**Doug Gill, Ph.D.** has served as the Washington director of special education since 1990. During the past 30 years, he has been a special education teacher at the elementary and secondary school levels. He was also an instructor at Georgia Southern University and the University of Georgia. Prior to 1990, Gill was director of the Pierce County (WA) Cooperative, an award-winning model that demonstrated improved post-school outcomes for special education students enrolled in vocational education programs.

**David Gordon, Ph.D.** is the superintendent of the Elk Grove (CA) Unified School District. He has also worked as a special education teacher and served with the California Department of Education.

**Nancy Grasmick, Ph.D.**, a special education teacher and principal, is Maryland's state superintendent of schools. Grasmick worked as supervisor of special education for the Baltimore County Public Schools for six years and later as assistant and associate superintendent. Grasmick received the 2000 Outstanding Advocate Award from the National Association of School Psychologists and the President's Award from the National Association of Private Schools for Exceptional Children. In 2000 she was awarded the prestigious McGraw Prize in Education.

**Stephen Hammerman** is vice chairman of the board of Merrill Lynch & Co., Inc. Hammerman serves on the boards of the National Organization for Disability and the National Center on Disability Services. He has also served as a director of the New York Stock Exchange, chairman of the National Association of Securities Dealers board of governors, and director of the Securities Investors Protection Corporation.

**Bryan Hassel, Ph.D.** is president of Public Impact, an education policy consulting firm. Hassel conducts research and consults nationally on charter schools, the comprehensive reform of public schools, and special education.

**Douglas Hunt, Ph.D.** is a commissioner for the Ohio Rehabilitation Services Commission and is the executive director for Assistive Technology of Ohio. From 1991 to 1997, Hunt chaired the Ohio Governor's Council on People with Disabilities.

**Michael Rivas** is the owner of MJR Group in San Antonio, TX, a design, consulting and construction management company. He is the parent of an autistic child.

**Cheryl Takemoto** is the executive director of the Parent Education Advocacy Training Center in Springfield, VA. She is the parent of a child with a visual impairment, cognitive disabilities, and other health needs.

**Katie Wright, Ed.D.** is a writer for the *St. Louis ARGUS Newspaper* in St. Louis, MO. She has worked as an elementary school and special education teacher, a director of special education, a learning specialist at St. Louis University, and an interim and assistant superintendent of schools in Illinois District 189. She also holds the National Council of Negro Women Illinois and National Black Women Leadership Award.

### **Ex-Officio Members**

**Beth Ann Bryan** is senior advisor to U.S. Secretary of Education Rod Paige. Bryan served as education policy director for then Texas Governor George W. Bush during the first year of his administration in 1995. Thereafter, she was an advisor to the Governor's Business Council and was a key leader in the Governor's Reading Initiative. She also served as program director for the First Lady's Family Literacy Initiative for Texas. From 1985 until 1989, she served as city council member and mayor pro tem for the City of West University Place, TX.

**Ed Sontag, Ph.D.** is assistant secretary for Administration and Management at the U.S. Department of Health and Human Services. Previously he served as the HHS deputy chief of staff for Management and Operations. Prior to joining HHS, Sontag was an advisor to Wisconsin Governor Tommy G. Thompson.

**Robert Pasternack, Ph.D.** is the assistant secretary for Special Education and Rehabilitative Services at the U.S. Department of Education. Previously, he was state director of special education for the New Mexico State Department of Education. He has worked with students with disabilities and their families for more than 25 years.

**Reid Lyon, Ph.D.** is a research psychologist and the chief of the Child Development and Behavior Branch within the National Institute of Child Health and Human Development at the National Institutes of Health. Before joining the NIH on a full-time basis in 1991, Lyon served on the faculties of Northwestern University (1980-83) and the University of Vermont (1983-91). He has taught children with learning disabilities, worked as a third grade classroom teacher, and served as a school psychologist for 12 years in the public schools. Lyon has authored, co-authored, and edited over 100 journal articles, books, and book chapters addressing learning differences and disabilities in children. He also serves as an advisor to President Bush on child development and education research and policies.

**Wade Horn, Ph.D.** is the assistant secretary for Children and Families at the U.S. Department of Health and Human Services. Previously he was president of the National Fatherhood Initiative. From 1989-1993, Horn was the commissioner for Children, Youth and Families and chief of the

Children's Bureau in HHS. He also served on the National Commission on Children from 1990-1993, and the National Commission on Childhood Disability from 1994-1995.

### **Commission Staff**

**Todd Jones** serves as executive director of the President's Commission on Excellence in Special Education. He also serves as deputy assistant secretary for enforcement in the U.S. Department of Education's Office for Civil Rights. Prior to joining the administration, Jones was the first president of the National Education Knowledge Industry Association. Previously, he was a staff attorney for the U.S. House of Representatives Committee on Education and the Workforce. During that period he was the chief Republican staff negotiator for House and Senate Members on the Individuals With Disabilities Education Act Amendments of 1997.

**Troy Justesen, Ed.D.** serves as deputy executive director of the President's Commission on Excellence in Special Education. Previously, he served as a policy analyst in the director's office of the U.S. Department of Education's Office of Special Education Programs. In the mid-1990's, Justesen worked at the U.S. Department of Justice on enforcement issues under the Americans with Disabilities Act of 1990. He has also served at the Utah State University-University Center for Excellence in Developmental Disabilities Education, Research, and Service.

**Linda Emery** is senior policy advisor for the President's Commission on Excellence in Special Education. Prior to this appointment, President Bush appointed Emery to be special assistant to the assistant secretary for Special Education and Rehabilitative Services. She has also worked as a budget analyst at the U.S. House of Representatives Committee on the Budget. In both the Reagan and Bush administrations, Emery worked as deputy director for Congressional Affairs for the U.S. Arms Control and Disarmament Agency. Previously she served as a legislative assistant to Oklahoma Senator Don Nickles. Emery began her career as a special education teacher.

**Kathleen Blomquist** serves as the Commission's director of media relations. Prior to joining the staff, Blomquist worked as director of advance for the Schundler for Governor campaign in New Jersey. Previously, Blomquist was a lead press advance representative for Bush-Cheney 2000. Prior to the presidential campaign, Blomquist was a member of Burson-Marsteller's New York public affairs practice. She also worked as a writer for the U.S. Army public affairs office in Giessen, Germany, and for the *National Review*.

**Marissa Muñoz** is the confidential assistant to the President's Commission on Excellence in Special Education. Previously, Munoz was employed in the Office of Presidential Personnel at the White House where she assisted in the appointments' process of boards and commissions. Prior to moving to Washington, DC, Munoz worked on George W. Bush's Presidential campaign and as a staff member in former Governor Bush's office of Constituent Services.

**Sambia Shivers-Barclay** serves as the special assistant to the executive director of the President's Commission on Excellence in Special Education. She has worked on the staff at Gallaudet University. She has also served as program analyst/interpreter for the U.S. Department of Education's Office of Special Education Programs.



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